Supreme Court of the United States

OCTOBER TERM, 1970

No. 5850

GEORGIA TOWNSEND, ETC.,

Appellant,

—v.—

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL.

and

No. 6000

LOVERTA ALEXANDER, ET AL.,

Appellants,

—v.—

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

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No. 6000

ALEXANDER

v.

SWANK

and

No. 5850

TOWNSEND

v.

SWANK

DATE	LIST OF ENTRIES
1- 8-68	1. Complaint and 7 copies with Appendix (one attached) filed
1- 8-68	2. Order granting plaintiff leave to proceed in forma pauperis and to waive filing fee entered. U.S. Marshall is ordered to serve summons without payment of costs. Napoli, J.
12- 5-68	3. Motion of defendant Harold O. Swank to strike and dismiss complaint filed.
12-10-68	4. Memorandum in support of motion of Harold O. Swank, Director of the Department of Public Aid of the State of Illinois to strike and dismiss plaintiffs' complaint for declaratory judgment and Injunction filed.
12-20-68	5. Plaintiffs' Petition to Amend Complaint filed.
12-20-68	6. Plaintiffs' Memorandum in opposition to defendant Harold O. Swank's motion to strike and dismiss Plaintiffs' Complaint filed.

DATE	LIST OF ENTRIES
1- 6-69	7. Appearance of William H. Robinson, Director Cook County Department of Public Aid, Mae Withers, Supervisor, Woodlawn District Office, Cook County Department of Public Aid as defendants and that of Edward V. Hanrahan, State's Attorney of Cook County as attorney for said defendants filed.
1- 6-69	8. Motion to dismiss of defendants William H. Robinson and Mae Withers filed.
1-21-69	9. Plaintiffs' Memorandum in support of Plaintiffs' motion to convene a Three Judge Court, filed.
1-21-69	10. Plaintiffs' Memorandum in opposition to defendants Robinson and Withers motion to dismiss filed.
1-21-69	11. Plaintiffs' motion to convene Three Judge Court and Notice of Motion filed.
1-23-69	12. Appearance of Georgia Townsend, ind. and on behalf of her dependent daughter Omega Minor and Omega Minor, individually as plaintiffs' and that of Thad B. Eubanks, Michael F. Lefkow and Arnold D. Breyer as attorneys for said plaintiffs, filed.
1-23-69	13. Pauper Affidavit of Georgia Townsend filed.
1-23-69	14. Pauper affidavit of Omega Minor filed.
1-23-69	15. Motion to intervene as additional plaintiffs and class representatives, filed.
1-23-69	16. Order granting motion for leave to file Pauper's Affidavits, Appearance, Affidavit and Compliance and for leave to join as additional parties plaintiff and class representative, entered. Marovitz, J. Mailed notices 1-24-69.
1-23-69	17. Order granting plaintiffs' motion to substitute Defendant David L. Daniel for defendant William H. Robinson, pursuant to rule 25(d), entered. Marovitz, J.

DATE	LIST OF ENTRIES
1-23-69	18. Plaintiffs' Petition to Amend Complaint filed.
1-23-69	19. Order granting plaintiffs' motion to correct and amend typographical error in complaint on the face so that the fifth line of paragraph one (page one) and the second line of paragraph 2(b) (page 6) in plaintiffs' complaint read "Article IV, Clause 2 of the United States Constitution", entered. Marovitz, J.
2-11-69	20. Motion of Harold O. Swank, Director, etc., to strike and dismiss the intervenors' complaint filed.
2-11-69	21. Objection of Harold O. Swank, Director, etc., to plaintiffs' motion to convene a three Judge Court, filed.
2-14-69	22. Motion to dismiss action of intervening plaintiffs and objections to motion to convene a Three Judge District Court, filed.
3-12-69	23. Intervening Complaint filed.
3-12-69	24. Leave granted to file intervening complaint instanter. The motion of defendant, Cook County to dismiss the original complaint shall stand to the intervening complaint. The motion of defendant the State of Illinois to strike and dismiss the intervening petition shall stand to the intervening Complaint. Marovitz, J.
3-13-69	25. Georgia Townsend and Omega Minor, plaintiffs' Memorandum in opposition to defendants Swank, Daniel and Withers motions to strike and dismiss their complaint filed.
3-28-69	26. Memorandum Opinion filed.
3-28-69	27. The Court files its Memorandum Opinion and counsel shall prepare a draft order in accordance therewith and submit same for entry on April 1, 1969 at 10:00 a.m. Marovitz, J. Mailed notices 4-1-69

DATE		LIST OF ENTRIES
3-17-69	28.	Memorandum in support of Motion of Harold O. Swank, Director of the Department of Public Aid of the State of Illinois to strike and dismiss the Intervenors complaint, filed.
4- 3-69	29.	Order the intervening parties Georgia Townsend and Omega Minor are allowed to intervene as plaintiffs. A Three Judge Court shall be convened. Defendants' motions to strike and dismiss the complaints are denied. Defendants are directed to file their answers within 40 days from date; Plaintiffs to file any responsive pleadings within 15 days thereafter and defendants to file any responsive pleadings within 15 days after the filing of plaintiffs' pleadings—Draft, Marovitz, J. Mailed notices 4-3-69
4- 7-69	30.	Designation of Three Judge Court comprising of the Honorable Luther M. Swygert, Honorable Joseph Sam Perry and the Honorable Abraham L. Marovitz, Judges, filed.
5-16-69	31.	Answer of Harold O. Swank to the complaint as amended of Loverta Alexander and Jerome Alexander, filed.
5-16-69	32.	Answer of Harold O. Swank to the complaint of Georgia Townsend and Omega Minor, filed.
6- 2-69	33.	Plaintiffs' Motion for Summary Judgment and Default Judgment, filed.
6-17-69	34.	Plaintiffs' Motion for Summary Judgment and Default Judgment, filed.
7-25-69	35.	Memorandum of Intervening Plaintiffs' in support of motion for summary Judgment, filed.
7-30-69	36.	Answer of David L. Daniel to the complaint of Georgia Townsend and Omega Minor, intervenors, filed.
7-30-69	37.	Answer of defendant, David L. Daniel to amended complaint filed.

DATE		LIST OF ENTRIES
8-11-69	38.	Memorandum in support of plaintiff's motion for summary judgment, filed.
9-18-69	39.	Deposition of Jerome Alexander, filed.
9-18-69	40.	Deposition of Loverta Alexander, filed. (One Envelope)
10- 8-69	41.	Deposition of Georgia Townsend, filed.
10- 8-69	42.	Deposition of Omega Minor, filed.
11-17-69	43.	Brief of the defendants David L. Daniel and Mae Withers in opposition to the Plaintiffs' motion for summary Judgment, filed.
11-18-69	44.	Answer of Defendant, Harold O. Swank, Director Department of Public Aid of The State of Illinois, to plaintiffs' Loverta Alexander's and Jerome Alexander's motion for summary judgment and default judgment, with exhibits A and B attached, filed.
11-18-69	45.	Answer of defendant, Harold O. Swank, Director Department of Public Aid of The State of Illinois, to Plaintiffs, Omega Minor's and Georgia Townsend's motion for Summary Judgment and Default with exhibits C and D attached, filed.
11-18-69	46.	Motion of Defendant, Harold O. Swank for Summary Judgment against the Plaintiffs' with exhibits A, B, C, D attached, filed.
11-18-69	47.	Motion of defendant, Harold O. Swank to strike the Memorandum in support of intervening plaintiffs' motion for Summary Judgment, filed.
11-18-69	48.	Memorandum in support of: Swank's answer to Plaintiffs' motion for Summary Judgment. Swank's motion for Summary Judgment; and, Swank's Motion to strike Memorandum of intervening plaintiffs' in support of their motion for Summary Judgment, filed.

DATE	LIST OF ENTRIES
11-18-69	49. Enter order granting motion of defendant Swank for leave to file instanter 1) Ans. to plaintiffs' motions for summary judgment, 2) Defendants' motion for Summary Judgment, 3) Motion strike plaintiffs' memo in support of motion for summary judgment, and, 4) Memo(s) in support of foregoing. Motion of defendant Harold S. Swank to strike the Memorandum in support of intervening plaintiffs' motion for Summary Judgment is denied. Marovitz, J.
11-21-69	50. Plaintiffs' motion to strike defendant Swank's distorted, unsworn and uncertified exhibit and to substitute an accurate and certified exhibit attached hereto, filed.
11-21-69	51. Cause is called for hearing, by motion of Mr. M. B. Goldberg, a member of the Bar of this Court, leave is granted Mr. James Spitzer, a member of the New York Bar to participate in this cause on behalf of the plaintiffs. Arguments heard and concluded and cause is taken under advisement. Swygert, CCA, J. Perry, D.C. J., Marovitz, D.C. J. Mailed notices 11-24-69.
11-21-69	52. Appearance of James Spitzer, Jr., as attorney for plaintiffs Loverta and Jerome Alexander, filed.
5- 5-70	53. Copy of Memorandum from Southern District of New York, Thelma Napper vs. George K. WYMAN, filed.
2-16-70	54. Supplemental Memorandum in support of Plaintiffs' motions for Summary Judgment, filed.

DATE	LIST OF ENTRIES
2-16-70	55. Leave granted plaintiffs to file instanter supplemental Memorandum in support of plaintiffs' motions for Summary Judgment. Defendants are granted 5 days from date to file responsive Memorandum. Marovitz, J.
4-30-70	56. Memorandum Opinion Judge Marovitz, filed.
4-30-70	57. It appearing to the Court that William G. Clark, is no longer the Attorney General of the State of Illinois. It is therefore ordered that the cause be and the same is hereby dismissed as to the defendant William G. Clark, Attorney General of the State of Illinois. Pursuant to the Court's Memorandum Opinion It is Ordered that the relief requested by plaintiffs must be denied. Plaintiffs' motion for Summary Judgment must be denied, defendants' motion for summary judgment must be granted and the cause must be dismissed. SWYGERT, CJ, PERRY, DJ., MAROVITZ, DJ.
5-11-70	58. Plaintiffs, Loverta Alexander and Jerome Alexander, Motion for Reconsideration; and Notices. (original and 3 copies) filed.
5-11-70	59. Intervening Plaintiffs Georgia Townsend and Omega Minor, Motion for Reconsideration filed.
5-15-70	60. Order requiring defendants to file a response to plaintiffs' motions for reconsideration within 10 days entered.—Marovitz, J.
5-25-70	61. Response of Harold O. Swank to Plaintiffs' motions for reconsideration with documents attached, filed.
5-25-70	62. Memorandum of the County Defendants in opposition to the plaintiffs' motion for reconsideration, filed.

DATE	LIST OF ENTRIES
6-12-70	63. It is Ordered that plaintiffs' motions for vacating judgment and for reconsideration are hereby denied as to all issues.—SWYGERT, CAJ, PERRY, DCJ, MAROVITZ, DCJ. Mailed notices 6-12-70
7-14-70	64. Affidavit of Omega Minor, in support of motion to proceed on appeal in forma pauperis, filed.
7-14-70	65. Affidavit of Georgia Townsend, in support of motion to proceed on appeal in forma pauperis, filed.
7-14-70	66. Enter order: Motion for leave to proceed in forma pauperis, granted Perry J. Mailed notices 7-15-70
7-14-70	67. Plaintiffs' motion for leave to proceed on appeal in forma pauperis, with notice of motion attached, filed.
7-14-70	68. Affidavit of Loverta Alexander, in support of motion to proceed on Appeal in forma pauperis, filed.
7-14-70	69. Affidavit of Jerome Alexander, in support of motion to proceed on Appeal in forma Pauperis, filed.
7-14-70	70. Enter order: Motion for leave to proceed on Appeal in forma pauperis, granted.—Perry, J. Mailed notices 7-15-70
7-14-70	71. Notice of Appeal to the Supreme Court of the United States on Behalf of Plaintiffs, filed.
7-14-70	72. Notice of Appeal to the Supreme Court of the United States on behalf of Intervening Plaintiffs, filed.
7-27-70	73. Plaintiffs and Intervening plaintiffs designation of contents of Record to be certified and transmitted to the Supreme Court, with Notice of Motion attached, thereto, filed.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUDGE MAROVITZ

No. 68C 2134

LOVERTA ALEXANDER, individually and on behalf of her minor son JEROME ALEXANDER; all individually and on behalf of all other persons similarly situated

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; WILLIAM H. ROBINSON, Director, Cook County Department of Public Aid; MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid; WILLIAM G. CLARK, Attorney General of the State of Illinois

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION—Filed November 8, 1968

1

Jurisdiction is based on Title 28 United States Code 1343 (3) (4), 2201, 2281 and 2284. Plaintiffs' cause of action arises under the Federal Civil Rights Act, Title 42, United States Code, Section 1983; Section 406 (a) (2) of the Social Security Act [Title 42 United States Code, Section 606 (a) (2)], Article IV, Clause 2 of the United States Constitution and under the Fourteenth Amendment to the United States Constitution.

2

(a) Plaintiff LOVERTA ALEXANDER is the mother of Plaintiff JEROME ALEXANDER and until November 1, 1968, a recipient of Aid to Families with Dependent Children (hereafter A.F.D.C.) a federally assisted welfare program administered by the Illinois Department of Public Aid.

(b) Plaintiff JEROME ALEXANDER is the only child at home of Plaintiff LOVERTA ALEXANDER. He is 18 years old and a full time student at Wilson Junior College, an accredited Junior College in Chicago, Illinois. JEROME ALEXANDER resides with his mother at their residence in the City of Chicago. He together with his mother received A.F.D.C. benefits until November 1, 1968.

(c) Plaintiffs bring this class action on their own behalf and on behalf of all other persons similarly situated pursuant to Rule 23 (a) (b) (2) and (b) (3) of the Federal Rules of Civil Procedure. The members of the class similarly situated are children between the ages of 18 and 21 and their parents or legal guardians who are denied A.F.D.C. benefits by the defendants solely because said children are or could be, full time college or university students as opposed to being full time high school, trade school or vocational school students. All members of the class are residents of the state of Illinois. The members of this class are so numerous as to make joinder impracticable; there are questions of law and fact common to the class; the claims representative of the parties are typical of the claims of the class; the representative parties will fairly and adequately protect the interests of the class; and the defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

3

The defendants are:

(a) HAROLD O. SWANK, Director of the Illinois Department of Public Aid

(b) WILLIAM H. ROBINSON, Director of the Cook County Department of Public Aid

(c) MAE WITHERS, Supervisor, Woodlawn District Office of the Cook County Department of Public Aid

The above named defendants are responsible under Illinois Statutes for the administration of A.F.D.C. benefits. Defendant HAROLD O. SWANK, is directly re-

sponsible for the promulgation and issuance of the regulation complained of herein.

(d) WILLIAM G. CLARK is the Attorney General of Illinois, the chief legal officer of the state.

4

(a) Illinois Public Aid Code, Article IV, sections 4-1.1 (Ch 23 sec 4-1.1 Ill. Rev. Stat as amended 1967) provides:

> Child Age Eligibility. The child or children must be under age 18, or age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school. "Regular attendance" as used in this Section, means attendance full time during the regular terms of such schools, or attendance part time during such regular terms as may be authorized by rule of the Illinois Department for the purpose of permitting the child to engage in employment which supplements instruction or which otherwise enhances his development toward a self-supporting status

(b) Illinois Department of Public Aid Regulation 150 provides in pertinent part:

> Age Requirements—Dependant children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational training school. (This does not include 18 through 20 years old children in college.)

5

On August 15, 1968 Plaintiff JEROME ALEXANDER graduated from High School. On September 9, 1968 plaintiff JEROME ALEXANDER enrolled as a full time student at Wilson Junior College located in the City of Chicago. JEROME ALEXANDER continued to reside with his mother, the plaintiff LOVERTA ALEXANDER. Plaintiff, JEROME ALEXANDER, reached 18 years of age on August 11, 1968.

6

On October 4, 1968 defendant MAE WITHERS, Superintendent of the Woodlawn District Office of the Cook County Department of Public Aid, acting in accordance with Ch. 23, sec. 4-1.1, Ill. Rev. Stat. and Illinois Department of Public Aid Regulation 150 withdrew A.F.D.C. assistance from plaintiffs. At all times herein defendant MAE WITHERS was acting under the direction and control of the other named defendants.

7

The Illinois Statute and the Department of Public Aid Regulation are unconstitutional on their face under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution insofar as they deny A.F.D.C. benefits to plaintiffs and other persons similarly situated.

(a) A classification which distinguishes between A.F.D.C. recipients who are full time students of high school, trade school or vocational school and those who are full time students of a college or university in an arbitrary and invidious discrimination, and bears no rational or reasonable relation to the salutory purpose of federal and state A.F.D.C. statutes and regulations.

(b) Plaintiff JEROME ALEXANDER would be entitled to A.F.D.C. benefits until reaching 21 years of age if he were enrolled as a full-time student in high school, trade or vocational school. A.F.D.C. benefits have been extended past the normal termination age of 18 by both federal and state statutes and regulations in order to encourage the children of indigent families to gain the necessary education needed to break the poverty cycle. To exclude college students from those entitled to extended benefits clearly thwarts the purpose of those extended benefits. Such an exclusion is irrational and irreconcilable with the basic purpose of A.F.D.C. assistance.

(c) Defendants herein have placed plaintiff JEROME ALEXANDER in the class of those available for full time employment although he is a full time student and unavailable for such employment. Such classification is

arbitrary and invidious in that it deprives the plaintiff and others similarly situated from a particular type of educaton with no logical or rational purpose for such deprivation.

8

(a) The Illinois statute and Department Regulation in question herein are in direct violation of Sec. 406 (a) (2) of the Social Security Act [Title 42 United States Code, Section 606 (a) (2)] which provides for the extension of A.F.D.C. benefits to age 21 for students "regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."

(b) The Department of Health, Education and Welfare in its Handbook of Public Assistance Administration has interpreted Sec. 406 (a) (2) to mean that the student should have his choice between advanced study at the college level or specific vocational or technical training in the same manner as those students not receiving public assistance. The HEW Regulation clearly provides federal financial participation for "children otherwise eligible for A.F.D.C. who:

"Have attained age 18 and are under 21 provided they are regularly attending:

(1) a school, college or university or
(2) a course of vocational or technical training designed to fit them for gainful employment."

(See appendix one)

9

The appropriate remedy is not to invalidate the entire Illinois Statute and Regulation, but just those parts which deny extended A.F.D.C. benefits to full time students enrolled in a college or university. The court should require the Department to extend these benefits equally to all full time students between 18 and 21 years of age.

10

Plaintiffs have no plain adequate or complete remedy at law. Unless relief requested herein is granted, plain-

tiffs will suffer irreparable injury and harm by virtue of defendants' refusal to act as set forth above.

WHEREFORE, plaintiffs pray:

(1) That pursuant to Title 28 United States Code, Section 2281 and 2284 a three judge court be convened to hear and determine this proceeding.

(2) The court declare Ch. 23 Sec. 4-1.1 Ill. Rev. Stat. and Illinois Department of Public Aid Regulation 150 to be:

(a) in violation of the Fourteenth Amendment to the United States Constitution;

(b) in violation of existing federal laws and therefore invalid under the Supremacy Clause Article IV, Clause 2, United States Constitution;

(3) The court grant an order temporarily restraining defendants from enforcing Ch. 23, Sec. 4-1.1, Ill. Rev. Stat. and Illinois Department of Public Aid Reg. 150 against plaintiffs and other members of the class.

(4) The Court temporarily enjoin, and after a hearing permanently enjoin defendants from enforcing Ch. 23, sec. 4-1.1 and Ill. Department of Public Aid Reg. 150.

5. The court grant such further relief as shall be necessary and proper.

Respectfully submitted

/s/ Melvin B. Goldberg
MELVIN B. GOLDBERG
Attorney for Plaintiffs

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FA 4-5181

Of Counsel:

Stanley A. Bass
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Chicago, Illinois

[Duly sworn to by Loverta Alexander and Jerome Alexander jurat omitted in printing (all in italics)]

APPENDIX ONE

C-3200

Handbook of Public Assistance Administration
"Green Sheets"
(Supplemental Pages for the Handbook)

Part IV Eligibility, Assistance, and Services

3200-3299 Age 10/11/65

G-3200. *Age*

G-3210. *Provisions of the Act*

Aid to Families With Dependent Children—Section 406 of the Social Security Act states as follows: "When used in this title—(a) The term 'dependent child' means a needy child . . . (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."

G-3220. *Interpretation*

The objective of the optional extension of the AFDC age limit to age twenty-one is to make it possible for States to claim Federal financial participation in the cost of assistance given in behalf of individuals under that age, while enabling them to take advantage of educational opportunities to improve their preparation for self-support.

At age 18, some young people may not yet be in high school and some age 18 to 21 are attending high school or institutions of higher learning, but may not have graduated. Assistance may be the factor in enabling them to continue in school. Others may be helped to return to school

or take advantage of vocational or technical training, if financial assistance in their behalf is available, and thus become better prepared to enter the labor market. These provisions include not only the youth living with relatives, but also those receiving assistance under AFDC foster care.

A student must be in regular attendance in a school, including elementary grades, high school, college or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment. Those who are attending school, or taking a course of vocational or technical training, on a part-time basis are considered to be in regular attendance.

A high school diploma is frequently a requirement for many jobs; and frequently, some college training, or even a degree, is necessary. Therefore, it is important to allow a young person the opportunity to at least complete high school, or to undertake advanced study, if he wishes to do so, rather than take specific vocational or technical training.

As is customary with families not receiving public assistance, the decision as to the course of study or training to be taken should be left to the youth and his parents. This does not preclude the recommendations of educational authorities as to the program best suited to the youth's capacities. Within the age limit set by the State, there should be a choice of attending a school, college, or university or taking a course of vocational or technical training for gainful employment.

For purposes of the Act, a course of vocational or technical training is an organized curriculum in a school or training unit or an organized training program under recognized sponsorship with a specified employment objective.

In addition to training courses offered by schools, institutes, or other training programs (e.g. apprenticeships or training arrangements, sponsored by business or industrial firms), youths served by the AFDC program might be eligible for admission to training courses established within programs under the Economic Opportunity Act (title I, Part A, and title V), the Manpower Development and Training Act, the AFDC Unemployed Parent Program (see IV-3424) and the Community Work and Training Program (see IV-3460) under title IV of the Social Security Act, and the Vocational Education Acts. Thus, vocational education courses provided pursuant to co-operative arrangements between the State public assistance agency and the State agency responsible for vocational education, under the authority of title IV of the Social Security Act, may offer training opportunities for youths receiving AFDC.

To achieve the objective of this legislation for increasing a young person's employability, he must have sufficient time, both in or outside the classroom or training center, to do the work required to complete the course. Therefore, a youth attending school or engaged in a training program should not be required to accept employment, in addition to his educational program, to remain eligible for AFDC.

Consideration of payments made under title I or II of the Economic Opportunity Act or programs assisted under such title must conform to legal prohibitions of the Act limiting the amount of such income which can be used in determination of need under public assistance programs. (See IV-3180.)

G-3240. *Federal Financial Participation*

Federal financial participation may be claimed for money or foster care payments made, or for

vendor payments made for medical services received, on or after July 30, 1965, with respect to children otherwise eligible for AFDC who:

Have attained age 18 and are under age 21 provided they are regularly attending:

(1) A school, college, or university or

(2) A course of vocational or technical training designed to fit them for gainful employment.

If payments are made under the conditions above, Federal financial participation may be claimed in payments made for months in which the child is not in school because of official school vacation, illness, convalescence, or family emergency, and for the month in which the child becomes 21 or in which he completes or discontinues his school or training attendance.

H. T. No. 69

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL.

vs.

HAROLD O. SWANK, ET AL.

PETITION TO AMEND COMPLAINT—
Filed December 20, 1968

Plaintiffs by their attorney Melvin B. Goldberg petition the Honorable Court for leave to correct and amend the fifth line of paragraph one (page one) and the second line of paragraph 2 (b) (page 6) in plaintiffs Complaint in the instant cause to read "Article VI, Clause 2 of the United States Constitution" instead of the present phrase "Article IV, Clause 2 of the United States Constitution" and in support thereof states as follows:

1) Plaintiffs have, from the outset, intended to rely on Article VI, Clause 2 of the United States Constitution, also referred to as "the Supremacy Clause" as one basis for the Court's jurisdiction.

2) A typographical error was made in preparation of the Complaint which in advertently transposed the roman numerals used in the phrase "Article VI".

WHEREFORE, plaintiffs pray for leave to correct and amend the Complaint as stated above so as to convey plaintiffs true intent.

Respectfully submitted

/s/ Melvin B. Goldberg
Attorney for Plaintiffs

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[Certificate of Service (Omitted in Printing)]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

GEORGIA TOWNSEND and OMEGA MINOR, both individually, and both on behalf of all OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS

—*vs*—

HAROLD O. SWANK, Director, Illinois Department of Public Aid; and DAVID L. DANIEL, Director, Cook County Department of Public Aid, DEFENDANTS

INTERVENING COMPLAINT—Filed March 12, 1969

Now comes GEORGIA TOWNSEND and OMEGA MINOR, both individually and both as members of the class described in the original complaint, by Thad B. Eubanks, Michael F. Lefkow and Arnold D. Breyer, their attorneys, complaining of all defendants and praying damages for depriving plaintiffs, and the class they represent, under color of law, of the rights, privileges and immunities secured to them, and the class they represent, by the Constitution and laws of the United States, and say:

1. This is an action for declaratory judgment pursuant to Title 28, U.S.C. Section 2201, that Chapter 23, Section 4-1.1, *Child Age Eligibility*, Illinois Rev. Stat., 1967, and Section 150 of the Illinois Department of Public Aid Catagorical Assistance Manual, a state wide regulation; are invalid and unconstitutional on their face and as applied to plaintiffs because they are in violation of and in conflict with Title 42, U.S.C., Sections 602(a)(9) and 606(a), supremacy of said federal statutes, being guaranteed by Article VI, Clause 2, of the United States Constitution, and because they are in violation of the Due Process and Equal Protection Clauses

of the Fourteenth Amendment to the United States Constitution, and also an action for supplementary injunctive relief, pursuant to Title 42, U.S.C., Section 1983, to enjoin the operation and enforcement of the above cited Illinois statute and regulation insofar as they deny persons, such as plaintiffs and the class they represent, a public assistance payment under the Illinois Aid to Families with Dependent Children (hereinafter referred to as AFDC) program to or for the benefit or support of any otherwise eligible child who is between the ages of 18 and 21 and a full time student at a college or university. The grounds for the relief sought in this action are:

a. Article VI, Clause 2, *Supremacy*, of the United States Constitution guarantees the supremacy of federal law when state and federal law are in conflict. Title 42, United States Code, Section 602(a)(9) requires that a State plan, as a condition of federal financial assistance, must furnish aid to all eligible persons with reasonable promptness. Title 42, United States Code, Section 606(a)(1) and (2) defines eligible persons to include college and university students.

> Title 42. United States Code, Section 606(a): "(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care . . ., and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) *a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;*" (Emphasis added).

However, the Illinois statute and regulation define eligible persons as not including college or university students.

Chap. 23. Ill. Rev. Stat., 1967. S.4-1.1. Child age eligibility:

"The child or children must be under 18, or age 18 or over but under age 21 if in *regular attendance in high school or in a vocational or technical training school.*" (Emphasis added). Ill. Dept. of Public Aid. Catagorical Assistance Manual. S. 150. Age requirements: ADC:

"Dependent children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational or technical training school. *(This does not include 18 through 20 year old children in college.)*" (Emphasis added.)

Pursuant to the above cited Illinois Statute and regulation the defendants herein, by excluding plaintiffs, who are otherwise eligible, from an AFDC grant, solely because plaintiff OMEGA MINOR is a full time college student, have deprived and continue to deprive plaintiffs of the benefits and privileges extended to them by federal law and such federal law is declared supreme by Article VI, Clause 2, of the United States Constitution.

b. The above cited Illinois statute and regulation arbitrarily and unreasonable and contrary to the purposes of the AFDC program, discriminate in violation of the Equal Protection and Due Process Clauses of this Fourteenth Amendment to the United States Constitution between children who are students in a college or university and children who are students in a high school, vocational or technical training school by excluding from AFDC benefits those children who are students in a college or university.

2. This is a federal cause of action to secure rights, privileges and immunities established by federal law and the United States Constitution as provided in:

Title 42. United States Code. S. 1983. Civil action for deprivation of rights:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

Jurisdiction is conferred on this Court by 28 U.S.C. SSC 1343(3) and (4), providing for original jurisdiction of this Court in suits authorized by 42 U.S.C. SS. 1983, and SS. 2201 and 2202 authorizing declaratory judgments.

3. Application is hereby made for the convening of a three-judge Federal District Court to hear and determine this matter pursuant to 28 U.S.C. 2281 and 2284.

4. Plaintiffs GEORGIA TOWNSEND and OMEGA MINOR are citizens of the United States and of Illinois and reside in Chicago, Illinois.

a. GEORGIA TOWNSEND is the mother and sole support of OMEGA MINOR, an illegitimate child born December 19, 1948.

b. GEORGIA TOWNSEND is a disabled individual and has no income, resources, support or maintenance other than public assistance payments from the Illinois and Cook County Departments of Public Aid as administered by defendants.

c. GEORGIA TOWNSEND received an AFDC grant on behalf of herself and on behalf of her dependent daughter OMEGA MINOR from December, 1953 to April, 1960. From April, 1963 to January, 1967 GEORGIA TOWNSEND received an Aid to the Disabled grant for herself and an AFDC grant for OMEGA MINOR. Said AFDC grant was cancelled in January, 1967, while OMEGA MINOR was

enrolled as a full time student at South East Junior College, Chicago, Illinois. The combined grants amounted to $171.19 in December, 1966.

d. The AFDC grant in the monthly amount of $87.94 was cancelled for the stated reason that OMEGA MINOR had become 18 years of age and was not a full time high school, vocational or technical training school student.

e. An Aid to the Disabled grant in the monthly amount of $123.25 was then issued to, and took account only of the needs of plaintiff GEORGIA TOWNSEND. A General Assistance grant in the monthly amount of $34.54 was issued to OMEGA MINOR in January, 1967, and was cancelled in May, 1967.

f. Plaintiffs have existed since June, 1967 on plaintiff GEORGIA TOWNSEND'S Aid to the Disabled grant from the Illinois and Cook County Departments of Public Aid as administered by defendants.

g. At the time of cancellation of the AFDC grant in January, 1967, plaintiffs were receiving $171.19 per month. Thereafter, since June, 1967, plaintiffs received $123.25 per month. This is a cut of 28% in the family's income, and said cut in income was, and is, in violation of federal law.

h. Plaintiffs are now receiving $116.00 per month from plaintiff GEORGIA TOWNSEND'S Aid to the Disabled grant. Both GEORGIA TOWNSEND and OMEGA MINOR subsist on said grant. Both plaintiffs are suffering irreparable injury and harm and are in a state of semi-starvation.

i. Plaintiff OMEGA MINOR has at all times since January, 1967, been a full time student at South East Junior College, Chicago, Illinois.

j. On September 26, 1968, with the assistance of counsel, plaintiffs made another application for an AFDC grant.

k. Said application for AFDC benefits was denied on November 8, 1968, by the Cook County Department of Public Aid as administered by William

H. Robinson, preceding Director to defendant DAVID L. DANIEL, on the grounds that plaintiff OMEGA MINOR was not in attendance at a vocational or technical school as required by the state wide regulation, Section 150 of the Illinois Department of Public Aid Categorical Assistance Manual.

l. Plaintiffs filed a statutory appeal with the Illinois Department of Public Aid. On November 21, 1968, a hearing was held before the Illinois Department of Public Aid.

m. On December 11, 1968, defendant HAROLD O. SWANK, Director, Illinois Department of Public Aid, rendered his decision upholding the denial of AFDC benefits to plaintiffs by the Cook County Department of Public Aid by interpreting the Illinois statute as excluding a vocational course of study or any course of study pursued at a college or university as proper qualification for AFDC benefits. A copy of the decision of defendant HAROLD O. SWANK in plaintiffs' appeal is attached hereto and marked "Exhibit A".

n. Plaintiffs have suffered severe and irreparable injury to their health and well being, including inadequate food, clothing, shelter, and the inability to pay debts, and to their family life as a result of defendants' operation and enforcement of the Illinois statute and regulation complained of herein, and plaintiffs will continue to suffer the same until relief is granted by this court.

5. The Illinois statute and regulation in question herein are in direct conflict with and in violation of Title 42, U.S.C., 602(a) which provides for AFDC benefits to the age of 21 for students "regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."

a. A State which participates in the federally finance AFDC program must submit a plan to the Secretary of Health, Education and Welfare (hereinafter referred to as HEW) which must conform

with the Social Security Act and with rules and regulations promulgated by HEW.

b. Title 42, U.S.C. Section 602(a)(9) requires: "(a) A State plan for aid and services to needy families with children must (9) provide . . . that all individuals wishing to make application shall have opportunity to do so, and that *aid to families with dependent children shall be furnished with reasonable promptness to all eligible individuals.*" (Emphasis added).

c. Title 42, U.S.C., Section 602(a) defines a "dependent child" as:

> Title 42 United States Code SS406(a)(1) and (2).
>
> "(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care . . ., and (2) who is (A) under the age of eighteen or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) *a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training* designed to fit him for gainful employment;" (Emphasis Added).

d. Plaintiff OMEGA MINOR is and has been a dependent child and is and has been an eligible individual within the meaning of the above cited federal statutes, and she and her mother GEORGIA TOWNSEND are entitled to have an AFDC grant furnished to them with reasonable promptness.

e. The above cited federal statutes are declared supreme by Article VI, Clause 2, *Supremacy*, of the United States Constitution.

6. Chapter 23, Section 4-11, *Child Age Eligibility*, Illinois Revised Statutes, 1967, and Section 150 of the Illinois Department of Public Aid Categorical Assistance Manual are unconstitutional on their face and as applied to plaintiffs because they are in violation of the Due

Process and Equal Protection clauses of the Fourteenth Amendment to the United States Constitution insofar as they deny benefits to plaintiffs, and the class they represent, who are otherwise eligible children in a college or university and their representative, while granting AFDC benefits to children of the same age and otherwise eligible who are attending a high school, vocational or technical training school.'

a. The above cited Illinois statute and regulation creates a classification which arbitrarily, unreasonably and in contradiction to the express purpose of the AFDC program, discriminates against potential recipients who are full time students in a college or university by distinguishing them from high school, vocational or technical training school students and by excludng them from benefits granted to or for the support of high school, vocational or technical training school students.

b. Plaintiffs would be entitled to an AFDC grant until plaintiff OMEGA MINOR was 21 years of age if she was enrolled as a full tine student in a high school, vocational or technical training school.

c. The purpose of granting benefits to recipients who are students until they are twenty-one years of age is to encourage needy children of indigent families to gain the education they need to attain their capacities for self-support and responsible citizenship. While on the other hand, the exclusion of college and university students by the Illinois statute and regulation clearly thwarts the purpose of granting said AFDC benefits. Such an exclusion is irrational and irreconcilable with the basic purpose of the AFDC program.

7. Plaintiffs have no adequate remedy at law.

8. Defendant HAROLD O. SWANK is the Director of the Illinois Department of Public Aid. He is responsible for adopting and implementing all the policies, rules and regulations of the Illinois Department of Public Aid, including Section 150 of that Department's Categorical Assistance Manual.

9. Defendant DAVID L. DANIEL is the Director of the Cook County Department of Public Aid. Subject to regulations issued by the State Department, he is responsible for administration of all aspects of Public Aid in Cook County, including implementation, with respect to plaintiffs, of Section 150 of the Illinois Department of Public Aid Categorical Assistance Manual.

10. Plaintiffs' request for an AFDC grant has been denied by the defendants. Further exhaustion of administrative remedies is not required in this case since in view of the interpretation of defendant HAROLD O. SWANK in his administrative decision in plaintiffs' appeal, further attempt would be furtile. Plaintiffs have no adequate administrative remedy for the regulation. Exhaustion is likewise not required in actions brought under the Civil Rights Act.

11. Plaintiffs seek judgment for $1,988.70 in their favor and against defendants for the amount of public assistance improperly withheld since January, 1967, to this date, and which will be withheld in the future until the judgment and an injunction by this court is entered ordering defendants to do otherwise. A schedule of benefits withheld is attached hereto and marked "Exhibit B".

12. Plaintiffs GEORGIA TOWNSEND and OMEGA MINOR bring this class action on their own behalf and on behalf of all other persons similarly situated pursuant to Rule 23(a)(b) (2) and (b) (3) of the Federal Rules of Civil Procedure. The members of the class similarly situated are children between the ages of 18 and 21 and their parents or legal guardians who are denied A.F.D.C. benefits by the defendants solely because said children are or could be, full time college or university students as opposed to being full time high school, trade school or vocational school students. All members of the class are residents of the State of Illinois. The members of this class are so numerous as to make joinder impracticable; there are questions of law and fact common to the class; the claims representative of the parties are typical of the claims of the class; the representative parties will fairly and adequately protect the interests of

the class; and the defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

WHEREFORE, Plaintiffs pray:

(A) That a three judge court be convened to hear and determine this cause, pursuant to Title 28, U.S.C., Section 2281 and 2284.

(B) That this court enter a declaratory judgment pursuant to Title 28, U.S.C. Sections 2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure, that Section 150 of the Illinois Department of Public Aid Categorical Assistance Manual and Chapter 23, Section 4-1.1, Ill. Rev. Stat., 1967, ciolate Article VI and the Fourteenth Amendment of the United States Constitution insofar as they exclude from the Illinois AFDC plan persons declared eligible by Title 42, U.S.C. Section 606 (a).

(C) That this court enjoin defendants, their sucessors, agents and employees from failing or refusing to make public assistance payments under the AFDC program to or for the benefit or support of any otherwise eligible child who is between the ages of 18 and 21 and a full time student at a college or university, and that this court grant such an injunction temporarily, pending the outcome of this case.

(D) That this court enter judgment for $1,988.70 in favor of plaintiffs and against defendants as damages for public assistance payments improperly withheld from plaintiffs.

(E) That this court grant plaintiffs such other and further relief as may appear just, including damages for defendant's unlawful past refusal to grant plaintiffs the AFDC payments they are entitled to receive.

/s/ Georgia Townsend
Individually and on behalf of her dependent daughter, OMEGA MINOR

/s/ Omega Minor
Individually

/s/ Michael F. Lefkow
One of Attorneys for Plaintiffs
THAD B. EUBANKS, MICHAEL F. LEFKOW, and ARNOLD D. BREYER
Attorneys for Plaintiffs
Legal Aid Bureau
4622 S. Martin L. King Drive
Chicago, Illinois 60653
Telephone 548-6700

[*Duly sworn to by Georgia Townsend, Omega Minor jurat omitted in printing (all in italics)*]

"EXHIBIT A"

ILLINOIS DEPARTMENT OF PUBLIC AID
Room 2000—160 North La Salle Street
Chicago, Illinois 60601

December 11, 1968

FInancial 6-2000 Ext. 615
APPEAL 66-160

CERTIFIED MAIL
Mrs. Georgia Townsend
3938 S. Lake Park Avenue
Chicago, Illinois

RE: ADC 203-48272

Dear Mrs. Townsend:

The Illinois Department of Public Aid has considered your written Notice of Appeal filed on November 8, 1968 from a decision of the Cook County Department of Public Aid in denying your application for public aid under the Aid to Dependent Children program filed on behalf of your daughter, Omega Minor, age 19.

On November 8, 1968, the county department denied the application filed on September 26, 1968, on the ground that your daughter was over the age of 18 and not in attendance at a vocational or technical training school as required by agency regulation. It based its decision upon Article IV, Section 4-1.1 of the Illinois Public Aid Code and the Department's Categorical Assistance Manuel Chapter 150.

Your daughter is in regular full-time attendance at the Chicago City College which is operated and maintained by a governmental agency of the City of Chicago under the jurisdiction of the State of Illinois. It offers two-year preparatory courses at college level and maintains eight different campuses located throughout the City of Chicago.

It was your contention, through your legal counsel, that your daughter is being deprived of her constitutional

rights in this matter; that she is eligible for public aid under the Supremacy Clause, Article VI, Clause 2, of the United States Constitution, and the Federal Social Security Act, Title 42, U.S.C., Section 406(a)(1) and (2). Your legal counsel submitted a written brief in support of his case. His primary contention is that the provisions of the Illinois Public Aid Code and its regulations relied upon by the county department are discriminatory to your daughter under the facts in the case. Article IV, Section 4-1.1 of the Illinois Public Aid Code reads as follows:

> "CHILD AGE ELIGIBILITY.) The child or children must be under 18, or age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school. 'Regular Attendance', as used in this Section, means attendance full time during the regular terms of such schools, or attendance part time during such regular terms as may authorized by rule of the Illinois Department for the purpose of permitting the child to engage in employment which supplements his classroom instruction or which otherwise enhances his development toward a self-supporting status."

The Department's Categorical Assistance Manual Chapter 150, reads, in part, as follows:

> "AGE REQUIREMENTS
>
> "Dependent children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational or technical training school. (This does not include 18 through 20 year old children in college.)"

The Department is bound by the age requirements as set forth by the General Assembly in Section 4-1.1 recited above, and the exception contained therein to include only those over the age of 18 in high school, vocational, or technical training schools. We are not cognizant of any power or authority of our own to enlarge the scope

of the Act to include the matter of the case before us. Under such concept, we will uphold the decision reached by the county department in this case.

Based on the foregoing, the decision of the Cook County Department of Public Aid in denying your application for public aid under the Aid to Dependent Children program on behalf of your daughter, Omega Minor on November 8, 1968 is affirmed. As was explained at the hearing, the Department's decision is subject to review only under the Illinois Administrative Review Act.

Very truly yours,

/s/ Harold O. Swank
HAROLD O. SWANK
Director

HGS:cc

cc: Mr. Arnold D. Breyer
Attorney at Law
Michael F. Lefkow
Attorney at Law

"EXHIBIT B"

SCHEDULE OF AFDC BENEFITS WITHHELD AS OF FEBRUARY, 1969

AFDC Personal Allowance For Child; 13-20 years old (Two in household):

Jan. 1967 through Nov. 1967. 11 mo. @ $42.22/mo. = $464.42
Dec. 1967 through June 1968. 7 mo. @ $42.78/mo. = 299.46
July 1968 through Feb. 1969. 8 mo. @ $43.81/mo. = 350.48
$1114.36

Note: Omega Minor recieved General Assistance from Jan. 1967 through May 1967:

4 mo. @ $34.54/mo. = -138.16
Sub-total 976.20 976.20

Transportation (School Carfare):

Jan. 1967 through Feb. 1969 25 mo. @ $12.00/mo. = $300.00 300.00

Lunches

Jan. 1967 through Feb. 1969 25 mo. @ $ 4.50/mo. = $112.50 112.50

Registration and School Fees

Jan. 1967 through Feb. 1969. 6 semesters @ $10/sem = $60 60.00

School Books and Supplies

Jan. 1967 through Feb. 1969 6 semesters @ $40/sem = 240.00 240.00

Educational Allowance

Jan. 1967 through Feb. 1969 25 mo. @ $12/mo. = $300.00 300.00
$1,988.70

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son JEROME ALEXANDER; all individually and on behalf of all other persons similarly situated, PLAINTIFFS

GEORGIA TOWNSEND, individually and on behalf of her dependant daughter OMEGA MINOR, and OEGA MINOR, individually, and as members of the class, INTERVENORS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; WILLIAM H. ROBINSON, Director, Cook County Department of Public Aid; MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid; WILLIAM G. CLARK, Attorney General of the State of Illinois, DEFENDANTS

MEMORANDUM OPINION—March 28, 1969

Motion to Intervene as Plaintiffs

Plaintiffs' Motion to Convene a Three-Judge Court

Defendants' Motion to Dismiss

This is a class action suit brought by Loverta Alexander, until November 1, 1968, a recipient of Aid to Families with Dependant Children, (hereafter A.F.D.C.), a federally assisted welfare program administered by the Illinois Department of Public Aid, individually and on behalf of her son Jerome Alexander, who is eighteen years old and a full time student at Wilson Junior College, an accredited Junior College in Chicago, Illinois. On their own behalf and for all those similarly situated, plaintiffs are seeking declaratory and injunctive relief.

Alleging a deprivation of their rights, 42 U.S.C. § 1983, plaintiffs request the convening of a three-judge federal court pursuant to 28 U.S.C. §§ 2282, 2284 in order to declare unconstitutional Ill. Rev. Stat. Ch. 23, § 4-1.1 and Illinois Department of Public Aid Regulation 150. Plaintiffs also seek injunctive relief restraining defendants from enforcing the challenged statute and regulation. Defendants have moved to strike and dismiss this complaint.

In an action of this kind, it is the duty of a single-judge court to make an initial determination as to the substantiality of the constitutional queston raised by the plaintiffs, as well as to see whether the complaint formally alleges a basis for equitable relief and is otherwise appropriate for hearing by a three-judge court. *Idlewild Bon Voyage Liquor Corp.* v. *Epstein*, 370 U.S. 713 (1962); *Landry* v. *Daley*, 280 F. Supp. 929, 935 (N.D. Ill. 1967). A constitutional question will be considered an insubstantial one if it is "obviously without merit or because its unsoundness is so clearly demonstrated by previous decisions of the Supreme Court as to foreclose the subject." *Id.* at 935.

Plaintiffs contend that the state statute and regulation in question unconstitutionally discriminate against college or university students. The challenged state statute states the eligibility requirements which a child must meet in order to be a recipient of A.F.D.C. payments. It provides:

> "The child or children must be under age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school." Ill. Rev. Stat. Ch. 23, § 4-1.1.

Regarding age requirements, Illinois Department of Public Aid Regulation 150 provides, in pertinent part:

> "Dependant children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational training school. (This does not include 18 through 20 year old children in college)."

Plaintiffs submit that these laws violate their right to equal protection as stated in the 14th Amendment to the United States Constitution. Under the current legal framework, one person, age 18 through 20, attending a vocational or technical training school may be eligible for A.F.D.C. payments in Illinois, while another person in the same age bracket and financial condition and with the same family background but who attends a college or university, would not be eligible. Whether the different treatment afforded these two similarly situated persons is rational and constitutional or arbitrary and unconstitutional need not, indeed, must not be settled here. Suffice it to say, the constitutional question presented is a substantial one and not foreclosed by previous judicial decision.

Further, in the Social Security Act, 42 U.S.C. § 606 (a), Congress has provided that welfare payments may be extended beyond age eighteen for students regularly attending college or vocational school in accordance with standards established by the Secretary of Health, Education and Welfare. Those standards are set forth in the Handbook of Public Assistance and state, in part:

> "Within the age limit set by the state, there should be a choice of attending a school, college or university or taking a course of vocational or technical training for gainful employment." (Complaint, Appendix 1, at p. 2).

Plaintiffs' second basic contention is that Illinois' law is not in conformity with the federal requirements and, therefore, in violation of the supremacy clause of the United States Constitution, Article VI, Clause 2. For this reason as well, plaintiffs present a substantial constitutional question deserving to be heard by a three-judge court.

Defendants have raised various objections to the convening of a three-judge court. For instance, they suggest that plaintiffs have neither attempted to use or exhaust state administrative remedies. *Sweeny* v. *State Board of Public Assistance*, 36 F. Supp. 171, aff'd, 119 F.2d 1023 (3d Cir. 1941), cert. denied, 314 U.S. 611

(1941). The short answer to this point is that plaintiffs who bring an action under the Civil Rights Act, 42 U.S.C. § 1983 which raises a substantial constitutional question are not required to exhaust state administrative remedies before a three-judge court will be convened. *King* v. *Smith*, 392 U.S. 309, 312 (1968); *Damico* v. *California*, 389 U.S. 416, 417 (1967). Defendants next seem to suggest that plaintiffs arguments based on the equal protection clause of the Fourteenth Amendment and the supremacy clause have been repudiated in *Snell* v. *Wyman*, 281 F. Supp. 853 (S.D. N.Y. 1968) and *Metcalf* v. *Swank*, 293 F. Supp. 268 (N.D. Ill. 1968). As defendants realize, however, those cases dealt with phases of public assistance different than those challenged here. They are no authority for the view that the particular contentions which plaintiffs raise have been considered and rejected. Significantly, in each of the cases cited by defendants, a three-judge court was convened to hear the merits of the constitutional challenge. Next, defendants contend that plaintiffs, in challenging the constitutionality of a Congressional act failed to comply with Local Rule 22, U.S.D.C., N.D. Ill., by failing to join the Secretary of Health, Education, and Welfare. There is no merit in this position either. Plaintiffs are not challenging but relying on a federal statute, and, consequently, Local Rule 22 is not applicable. Secondly, the Secretary of Health, Education and Welfare is not required to be joined under the Federal Rules of Civil Procedure because complete relief can be afforded in his absence and his interest in the subject matter of this litigation will not be affected by this litgaton nor will any parties be subjected to multiple or inconsistence litigation. Rule 19, Fed. R. Civ. P. Finally, defendants raise a series of objections to the convening of a three-judge court the thrust of which is that plaintiffs are eligible for other forms of financial assistance, including welfare payments and educational scholarships and that the program adopted by Illinois has been approved by the Secretary of HEW in accordance with federal regulations, 45 CFR ch. II, pt. 201.3(c). Neither of these contentions precludes the convening of a three-judge

court. Whether or not plaintiffs are eligible for assistance from other legitimate programs is irrelevant to their claim that they have been discriminated against under the challenged aid program. Further, the executive branch cannot validate a welfare plan promulgated under an unconstitutional state statute and regulation.

A short while before disposition was to be made on the issue presented by the plaintiffs, Georgia Townsend and her daughter, both individually and as members of the class described in the original complaint moved for leave to be added as additional parties in the instant cause. They subsequently filed an intervening complaint which is similar to that filed originally. In addition to seeking the same relief sought by the original plaintiffs, intervening plaintiffs also ask for $1,988.70 as damages for public assistance payments improperly withheld.

Defendants have moved to strike and dismiss this intervening complaint for the same reasons they urged upon us with regard to the original complaint. Their contentions are rejected again for the reasons stated earlier. A new contention raised by defendants is that the Illinois Constitution Art. IV, § 26, prohibits suits against the state, state agencies, and state officials. Defendants cite two federal cases in support: *Truitt* v. *State of Illinois*, 278 F.2d 819 (7th Cir. 1960), cert. denied, 364 U.S. 866 (1960) and *Great American Insurance Co.* v. *Stilley*, 212 F. Supp. 303 (E.D. Ill. 1962). In the latter district court case, the court ruled directly contrary to defendants' contention. It held that an action against a state officer on the ground that he violated plaintiff's rights while acting under an unconstitutional statute is not a suit against the state and is not prohibited by Article IV, § 26 of the Illinois Constitution. *Id.* at 304, 306. In *Truitt*, the Seventh Circuit affirmed a judgment of lower court which had dismissed the suit for want of jurisdiction. In that action, plaintiff had sued the State of Illinois, not an agency or an official. The court merely recognized that the state did not in fact and could not in law under its constitution consent to be sued. *Truitt* v. *State of Illinois*, 278 F. Supp. 819 at 820. In the instant action, plaintiffs have brought

suit against individual persons for alleged deprivations of rights. This type of suit is quite properly brought against these defendants. Indeed, some of these defendants are presently and properly parties defendant to another constitutional challenge to another aspect of the Illinois Public Aid Code. See, e.g., *Metcalf* v. *Swank*, 293 F. Supp. 268 (N.D. Ill. 1968).

The motion to intervene will be granted. The motions to convene a three-judge court to hear and decide the constitutional challenges will be granted as well. The motions to strike and dismiss will be denied.

ENTER:

/s/ Abraham L. Marovitz
ABRAHAM L. MAROVITZ

Mar. 28, 1969

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son JEROME ALEXANDER; all individually and on behalf of all other persons similarly situated

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; WILLIAM H. ROBINSON, Director, Cook County Department of Public Aid; MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid; WILLIAM G. CLARK, Attorney General of the State of Illinois

ANSWER OF HAROLD O. SWANK TO THE COMPLAINT AS AMENDED OF LOVERTA ALEXANDER AND JEROME ALEXANDER—Filed May 16, 1969

Comes now HAROLD O. SWANK, Director of the Department of Public Aid of the State of Illinois, one of the defendants herein, by WILLIAM J. SCOTT, the Attorney General of the State of Illinois, his attorney, and answering the complaint as amended of LOVERTA ALEXANDER, individually and on behalf of her minor son, Jerome Alexander, all individually and on behalf of all other persons similarly situated, says:

1.

Defendant denies the allegations in paragraph 1 of plaintiffs' complaint that plaintiffs, or either of them, have a cause of action pursuant to the enactments, or any of same, alleged in said paragraph, against this defendant.

2.

(a) Defendant admits the allegations in paragraph 2 (a) of plaintiffs' complaint.

(b) Defendant admits the allegations in paragraph 2(b) of plaintiffs' complaint that plaintiff, Jerome Alexander, was at the time of the filing of plaintiffs' complaint eighteen years of age and that he and his mother received A.F.D.C. benefits until November 1, 1968, but this defendant has no knowledge or information sufficient to form a belief as to the truth of the other allegations in said paragraph.

(c) Defendant denies the allegation in paragraph 2(c) that the plaintiffs are entitled to bring any action pursuant to the Rule therein mentioned, and as to the remaining allegations in said paragraph this defendant has no knowledge or information sufficient to form a belief as to the truth of said remaining allegations.

3.

(a) This defendant admits that he is the Director of the Department of Public Aid of the State of Illinois, as alleged in paragraph 3(a) of said complaint.

Further answering this paragraph, this defendant says that the regulation therein referred to is in accordance with the statutes of the State of Illinois.

4.

Defendant admits the allegations in subparagraphs (a) and (b) of this paragraph.

5.

Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

6.

Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

7.

Defendant denies the allegations in this paragraph.

(a) Defendant denies the allegations in this paragraph.

(b) Defendant admits the first sentence of this paragraph but denies the remainder of this paragraph.

(c) Defendant admits that plaintiff Jerome Alexander is and should be eligible for full time employment, but denies the remaining allegations in this paragraph.

8.

Defendant denies the allegations in this paragraph and the subparagraphs of this paragraph.

9.

Defendant denies that plaintiffs are entitled to the relief sought herein.

10.

Defendant denies the allegations in this paragraph and denies that the plaintiffs are entitled to any of the relief sought herein, or any of the paragraphs or subparagraphs of plaintiffs' prayer.

11.

Further answering plaintiffs' complaint this defendant says that upon the termination of the A.F.D.C. grants to the plaintiffs, that the said plaintiffs immediately started receiving monthly General Assistance, plus clothing allowances as needed, and are still receiving same. That in addition thereto, Jerome Alexander receives monthly Social Security benefits.

/s/ William J. Scott
Attorney General
State of Illinois
160 North LaSalle Street
Chicago, Illinois 60601
Financial 6-2000
Attorney for Defendant
Harold O. Swank

Bernard Genis
Assistant Attorney General
Of Counsel

[Affidavit of Service (Omitted in Printing)]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER; GEORGIA TOWNSEND, individually and on behalf of her dependent daughter OMEGA MINOR, and OMEGA MINOR, individually, and all on behalf of all OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid and DAVID L. DANIEL, Director, Cook County Department of Public Aid, DEFENDANTS

ANSWER OF HAROLD O. SWANK TO THE COMPLAINT OF GEORGIA TOWNSEND AND OMEGA MINOR—Filed May 16, 1969

COMES NOW HAROLD O. SWANK, Director of the Department of Public Aid of the State of Illinois, one of the defendants herein, by WILLIAM J. SCOTT, the Attorney General of the State of Illinois, his attorney, and answering the Complaint of GEORGIA TOWNSEND, individually and on behalf of her dependent daughter, OMEGA MINOR, individually and both as members of the class described in the original Complaint, says:

I. Defendant denies that this is a proper action for declaratory judgment or for injunctive relief, and denies the remaining allegations in Paragraph One of Plaintiff's Complaint.

a) Defendant admits that *Title 42, Section 606 (a); Chapter 23, Ill. Rev. Stat., 1967, s. 4-1.1,* and the Illinois regulation, are correctly stated, but denies that the State Statute or the State Regulation are in conflict with the Federal Law, and denies the

remaining allegations in said sub-paragraph and denies that the plaintiffs or either of them are entitled to the relief sought.

b) Defendant denies the allegations in this sub-paragraph.

II. Defendant denies the allegations contained in this paragraph of Plaintiffs' Complaint.

III. Defendant denies that plaintiffs or either of them are entitled to the convening of a three-judge court.

IV. Defendant admits the allegations in this paragraph.

a) This defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations in this sub-paragraph.

b) This defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations in this sub-paragraph.

c) Defendant admits the allegations in this sub-paragraph, and further answering same, says that the said GEORGIA TOWNSEND is still receiving an Aid to the Disabled grant.

d) Defendant admits the allegation in this sub-paragraph.

e) Defendant denies that the Aid to the Disabled grant in said paragraph mentioned took account only of the needs of plaintiff, GEORGIA TOWNSEND.

f) Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations in this sub-paragraph.

g) Defendant admits the allegation in the first sentence of this sub-paragraph, but further answering this sentence says that upon the cancellation of the AFDC grant therein referred to, GEORGIA TOWNSEND started receiving an Aid to the Disabled grant of One Hundred Twenty-three and 25/100 ($123.25) Dollars per month, while OMEGA MINOR started receiving a general assistance grant of

Thirty-four and 50/100 ($34.50) Dollars per month, for a total of One Hundred Fifty-seven and 79/100 ($157.79) per month, which was just $13.40 less than they had been receiving under the AFDC grant of One Hundred Seventy-one and 19/100 ($171.19) Dollars per month. Defendant denies the remainder of this sub-paragraph.

h) Defendant denies the first sentence in this sub-paragraph and as to the remainder of said sub-paragraph this defendant has no knowledge or information sufficient to form a belief as to the truth of said remaining allegations.

i) Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations of this sub-paragraph.

j) Defendant admits the allegations of this sub-paragraph.

k) Defendant admits the allegations of this sub-paragraph.

l) The defendant admits the allegations of this sub-paragraph.

m) The defendant admits the allegation of this sub-paragraph.

n) Defendant denies the allegations of this sub-paragraph.

V. Defendant denies the allegations in this paragraph.

a) The defendant admits the allegations in this sub-paragraph, and further answering same, says that the State of Illinois did submit a plan to the Secretary of HEW, that said plan did conform with the social Security Act and with the rules and regulations promulgated by HEW, that the said Department of HEW approved said plan and that the benefits received by the plaintiffs have been in accordance with said plan.

b) Defendant admits the allegations in this sub-paragraph.

c) Defendant admits the allegations in this subparagraph.

d) Defendant denies the allegations in this subparagraph and further answering same says that when OMEGA MINOR became 18 years of age and completed high school that she ceased being a dependant child and that therefore neither she nor her mother were thereafter eligible for AFDC.

e) Defendant says that there is no conflict between the Federal and the State Statute.

VI. Defendant denies the allegations in this paragraph.

a) Defendant denies the allegations in this subparagraph.

b) Defendant admits the allegations in this subparagraph.

c) Defendant denies the allegations in this subparagraph.

VII. Defendant denies the allegation in this paragraph.

VIII. Defendant admits he is the Director of the Department of Public Aid of the State of Illinois. Further answering this paragraph the defendant says that it is the State Legislature of the State of Illinois that adopts and formulates all the policies of the Department of Public Aid of the State of Illinois and that this defendant merely implements same.

X. Defendant admits the first sentence, but denies the remaining allegations in this paragraph.

XI. Defendant denies that plaintiffs are entitled to judgment against this defendant in the amount claimed or in any amount, and denies that any sums have been improprely withheld.

XII. Defendant denies that plaintiffs are entitled to bring this class action according to the rule therein mentioned, and denies the remaining allegations in said paragraph.

Defendant denies that plaintiffs are entitled to any of the relief that they seek.

/s/ William J. Scott
Attorney General
State of Illinois
Attorney for Defendant,
HAROLD O. SWANK

BERNARD GENIS
Assistant Attorney General
Of Counsel

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

George G. ?????? being first duly sworn on oath, deposes and says that he served the foregoing Answer upon the following named parties by enclosing a true copy thereof, in an envelope, postage prepaid, addressed to:

MELVIN B. GOLDBERG
6020 S. University Avenue
Chicago, Illinois 60637
Attorney for LOVERTA and
JEROME ALEXANDER

MICHAEL F. LEFKOW
4622 S. Martin Luther
King Drive
Chicago, Illinois 60653,
An Attorney for GEORGIA
TOWNSEND and OMEGA MINOR

and

DEAN HILTON
Assistant States Attorney
Chicago Civic Center, 5th Floor
Chicago, Illinois,
Attorney for Defendants
DANIEL and WITHERS.

Said envelopes were deposited in the United States Mail Chute at 160 North La Salle Street, Chicago, Illinois, 60601, at the hour of 1:00 p.m. on the 16th day of May, A. D. 1969.

/s/ [Illegible]

Subscribed and sworn to before me this 16 day of May, A. D. 1969.

/s/ Mary B. Sullivan
Notary Public

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENORS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL., DEFENDANTS

Complaint for Declaratory Judgment and Injunction

PLAINTIFFS MOTION FOR SUMMARY JUDGMENT AND DEFAULT JUDGMENT—Filed June 2, 1969

Plaintiffs LOVERTA ALEXANDER and JEROME ALEXANDER, by their attorney, Melvin B. Goldberg, move this court to enter Summary Judgment in their favor against defendant HAROLD O. SWANK and Default Judgment in their favor against defendants DAVID L. DANIELS and MAE WITHERS, and in support thereof state as follows:

I

Defendants DANIELS and WITHERS have failed to answer or otherwise respond to plaintiffs' complaint within the time allotted by the Court in its order of April 3, 1969.

II

The facts disclosed by the pleadings and accompanying affidavits and exhibits, together with Plaintiffs' Affidavits attached hereto, show that there is no fact in dispute in this action which is material to a disposition thereof.

WHEREFORE, plaintiffs pray that their motion for summary judgment against defendant HAROLD O. SWANK be granted and that their motion for default judgment against defendants DAVID L. DANIELS and MAE WITHERS be granted and that they have judgment against said defendants as prayed in the Complaint.

Respectfully submitted,

/s/ Melvin B. Goldberg
Attorney for Plaintiffs
Mandel Legal Aid Clinic
6020 South University
Chicago, Illinois 60637
Telephone: FAirfax 4-5181

Of Counsel:

Stanley A. Bass, Esq.
Community Legal Council
116 South Michigan Avenue
Chicago, Illinois
Carl Rachlin, Esq.
Scholarship, Education and
Defense Fund for Racial
Equality, Inc.
164 Madison
New York, New York

[*Duly sworn to by Penelope A. Downs jurat omitted in printing (all in italics)*]

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT

JEROME ALEXANDER, being first duly sworn on oath, deposes and says:

1) He currently resides with his mother, the plaintiff LOVERTA ALEXANDER at her residence in Chicago, Illinois and has done so continuously throughout his life.

2) He is currently a full time student at Wilson Junior College, located in Chicago, Illinois and has been such since his enrollment in September 1968.

/s/ Jerome Alexander
Affiant

Subscribed and Sworn to before me this 28th day of May, 1969.

/s/ Vera G. Jackson
Notary Public

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

AFFIDAVIT

LOVERTA ALEXANDER, being first duly sworn on oath deposes and says:

1) Prior to the November 1, 1968 termination of Aid to Families with Dependent Children benefits my son, JEROME ALEXANDER, and I received the following amounts of assistance:

$134.92 per month, A.F.D.C. benefits
46.20 per month, Old Age Survivors Insurance Benefits

for a total amount of $181.12 per month.

2) Since the November 1, 1968 termination of A.F.D.C. benefits my son, JEROME ALEXANDER has received $46.60 per month in Old Age Survivors Insurance benefits and I have received $111.00 per month in general assistance benefits. This amount is $23.52 less per month than the total amount received under the A.F.D.C. grant.

/s/ Loverta Alexander
Affiant

Subscribed and Sworn to before me this 28th day of May, 1969.

/s/ Vera G. Jackson
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENORS

v.

HAROLD O. SWANK, ET AL., DEFENDANTS

INTERVENING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND DEFAULT JUDGMENT—Filed June 17, 1969

Now come intervening plaintiffs GEORGIA TOWNSEND and OMEGA MINOR, by their attorneys, Michael F. Lefkow, Thad B. Eubanks and Arnold Breyer, and move this court to enter Summary Judgment in their favor against defendant HAROLD O. SWANK and Default Judgment in their favor against defendants DAVID L. DANIEL and MAE WITHERS, and in support thereof state as follows:

I

Defendants DANIELS and WITHERS have failed to answer or otherwise respond to plaintiffs' complaint within the time allotted by the Court in its order of April 3, 1969.

II

The facts disclosed by the pleadings and accompanying affidavits and exhibits, together with Plaintiffs' Affidavits attached hereto, show that there is no fact in dispute in this action which is material to a disposition thereof.

WHEREFORE, plaintiffs pray that their motion for summary judgment against defendant HAROLD O. SWANK be granted and that they have judgment against said defendants as prayed in the Complaint.

/s/ Michael F. Lefkow
One of Attorneys
for Intervening Plaintiffs

Michael F. Lefkow and Stanley A. Bass
Community Legal Counsel
116 South Michigan Avenue
Chicago, Illinois 60603
726-0157

Thad B. Eubanks and Arnold D. Breyer
Legal Aid Bureau
4622 Martin Luther King Drive
Chicago, Illinois
548-6700

Received a copy of the above notices this ____ day of _____, 1969, before _____ P.M.

_____

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENORS

v.

HAROLD O. SWANK, ET AL., DEFENDANTS

AFFIDAVIT OF GEORGIA TOWNSEND

GEORGIA TOWNSEND, being first duly sworn on oath, deposes and says:

1. I am one of the intervening plaintiffs in the above entitled cause.

2. I am 40 years old, being born on October 20, 1928.

3. I am a citizen of the United States and a resident of the State of Illinois, County of Cook and City of Chicago.

4. I am a disabled individual. I have no income, resources, support or maintenance other than payments to me of an Aid to the Disabled grant by the Illinois and Cook County Departments of Public Aid in the monthly amount of $120.50.

5. I am the mother and sole support of my daughter OMEGA MINOR, who was born December 19, 1948.

6. I received an Aid to Families with Dependent Children (A.F.D.C.) grant on behalf of myself and my dependent daughter OMEGA MINOR from December, 1953, to April, 1960. From April 1963, to December 1966, I received an Aid to the Disabled grant for myself and an A.F.D.C. grant on behalf of OMEGA MINOR. The combined grants amounted to $171.19 in December, 1966.

7. The A.F.D.C. grant in the monthly amount of $87.94 was cancelled by defendants effective January, 1967, while OMEGA MINOR was enrolled as a regular student at South East Junior College, Chicago, Illinois,

for the stated reason that OMEGA MINOR had become 18 years of age and was not a student in regular attendance at a high school, vocational or technical training school.

8. An Aid to the Disabled grant was then issued to me in the monthly amount of $123.25. This grant took account only of my needs.

9. A General Assistance grant in the monthly amount of $34.54 was issued to OMEGA MINOR in January, 1967, and was cancelled in May, 1967.

10. My daughter OMEGA MINOR has at all times since January, 1967, been a student in regular attendance at South East Junior College, Chicago, Illinois.

11. My daughter and I have existed since June, 1967, solely on my Aid to the Disabled grant.

12. The termination of my daughter's A.F.D.C. grant by defendants cut my family's income 28%.

13. From January, 1967, to May. 1969, the A.F.D.C. benefits withheld by defendants total $2,205.63 and the same is claimed as damages already accrued. The monthly rate of A.F.D.C. benefits withheld is now $72.31 per month, exclusive of registration and school fees and school books and supplies. A schedule of benefits withheld is attached to and hereby incorporated by reference into this affidavit.

/s/ Georgia Townsend
Affiant

Subscribed and Sworn to before me this 6th day of June, 1969.

/s/ Michael F. Lefkow
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENORS

v.

HAROLD O. SWANK, ET AL., DEFENDANTS

AFFIDAVIT OF OMEGA MINOR

OMEGA MINOR, being first sworn on oath, deposes and says:

1. I am one of the intervening plaintiffs in the above entitled cause.

2. I am 20 years old, being born December 19, 1948.

3. I am a citizen of the United States and a resident of the State of Illinois, County of Cook, and City of Chicago.

4. I graduated from DuSable High School in August, 1966.

5. I enrolled as a regular student at South East Junior College in September, 1966. I have been a student in regular attendance at that institution since that time.

6. I am pursuing a course of study leading to the profession of teaching. I plan to teach in elementary schools upon obtaining my bachelor of arts degree.

7. I incorporated herein by reference and make a part of my affidavit all facts set out in the affidavit of my mother GEORGIA TOWNSEND.

8. From January, 1967, to May, 1969, the A.F.D.C. benefits withheld from me by defendants total $2,205.63, and that amount I claim as damages already accrued. The monthly rate of A.F.D.C. benefits withheld from me is now $72.31 per month, exclusive of registration and school fees and school books and supplies. A schedule

of benefits withheld is attached to and hereby incorporated by reference into this affidavit.

/s/ Omega Minor
OMEGA MINOR
Affiant

Subscribed and Sworn to before me this 6th day of June, 1969.

/s/ Michael F. Lefkow
Notary Public

SCHEDULE OF A.F.D.C. BENEFITS WITHHELD AS OF MAY, 1969.

A.F.D.C. Personal Allowance for Child; 13-20 years old (Two in household):

Jan. 1967 through Nov. 1967 11 mo. at $42.22/mo. = $464.42
Dec. 1967 through June 1968 7 mo. at $42.78/mo. = 299.46
July 1968 through May 1969 8 mo. at $43.81/mo. = 481.91

$1,245.79

Note: Omega Minor received General Assistance from Jan. 1967 through May 1967:

4 mo. at $34.54/mo. = -138.16

sub-total 1,107.63 1,107.63

Transportation (School Carfare):

Jan. 1967 through May 1969 28 mo. at $12.00/mo. = $336.00 336.00

Lunches:

Jan. 1967 through May 1969 28 mo. at $ 4.50/mo. = $126.00 126.00

Registration and School Fees:

Jan. 1967 through May 1969 6 semesters at $10/sem 60.00 60.00

School Books and Supplies:

Jan. 1967 through May 1969 6 semesters at $40/sem 240.00 240.00

Educational Allowance:

Jan. 1967 through May 1969 28 mo. at $12.00/mo. = 336.00 336.00

$2,205.63

[Proof of Service (Omitted in Printing]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DISTRICT

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER, GEORGIA TOWNSEND, individually and on behalf of her dependent daughter OMEGA MINOR, individually, and all on behalf of all OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS,

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid and DAVID L. DANIEL, Director, Cook County Department of Public Aid, DEFENDANTS

ANSWER OF DAVID L. DANIEL TO THE COMPLAINT OF GEORGIA TOWNSEND AND OMEGA MINOR, INTERVENORS—Filed July 30, 1969

Now comes the Defendant, DAVID L. DANIEL, Director of the Cook County Department of Public Aid, by his attorney, EDWARD V. HANRAHAN, State's Attorney of Cook County and answers the Intervenors' Complaint as follows:

The Defendant, DAVID L. DANIEL, adopts the Answer to the Intervenors Complaint of Harold O. Swank, Director of the Department of Public Aid of the State of Illinois, filed May 21, 1969.

EDWARD V. HANRAHAN
State's Attorney of Cook County
Attorney for Defendant, David L. Daniel, Director, Cook County Department of Public Aid.

/s/ DEAN H. BILTON
Assistant State's Attorney

[Affidavit of Service (omitted in printing)]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER, GEORGIA TOWNSEND, individually and on behalf of her dependent daughter OMEGA MINOR, and OMEGA MINOR, individually, and all on behalf of all OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid and DAVID L. DANIEL, Director, Cook County Department of Public Aid, DEFENDANTS

ANSWER—Filed July 30, 1969

Now comes the defendant, DAVID L. DANIEL, Director, Cook County Department of Public Aid, by his attorney, EDWARD V. HANRAHAN, State's Attorney of Cook County, and answers the Plaintiff's Amended Complaint as follows:

1. The allegation in paragraph 1 of the Complaint that the Plaintiff has a cause of action based upon the enumerated statutes is denied.

2. He admits the allegations contained in paragraphs 2 (A) and 2 (B) of the Amended Complaint; however, he denies the allegations contained in paragraph 2 (C) of the Complaint.

3. He admits the allegations contained in paragraph 3 of the Complaint.

4. He admits the allegations contained in paragraph 4 of the Complaint.

5. The Defendant has no knowledge sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Complaint.

6. He admits the allegations contained in paragraph 6 of the Complaint.

7. He denies the allegations contained in paragraph 7 of the Complaint.

The Defendant admits the allegation in paragraph 7 (B) of the Complaint, that the Plaintiff, Jerome Alexander, if enrolled in a trade or vocational school would be entitled to A.F.D.C. aid until age 21. The remaining allegations in paragraph 7 (B) of the Complaint are denied.

He denies the allegations contained in paragraph 7 (C) of the Complaint.

8. He denies the allegations contained in paragraph 8 (A) of the Complaint.

He admits the allegations contained in paragraph 8 (B) of the Complaint.

9. He denies the allegations contained in paragraph 9 of the Complaint.

10. He denies the allegations contained in paragraph 10 of the Complaint.

WHEREFORE, the Defendant, DAVID L. DANIEL, asks that the Court enter judgment for the Defendants.

EDWARD V. HANRAHAN
State's Attorney of Cook County,
Attorney for Defendant, David L.
Daniel, Director, Cook County
Department of Public Aid.

/s/ DEAN H. BILTON
Assistant State's Attorney

[Affidavit of Service (omitted in printing)]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS
GEORGIA TOWNSEND, ET AL., INTERVENORS

-vs-

HAROLD O. SWANK, DIRECTOR, ILLINOIS DEPARTMENT OF PUBLIC AID, ET AL., DEFENDANTS

ANSWER OF DEFENDANT HAROLD O. SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF THE STATE OF ILLINOIS, TO PLAINTIFFS LOVERTA ALEXANDER'S AND JEROME ALEXANDER'S MOTION FOR SUMMARY JUDGMENT AND DEFAULT JUDGMENT—Filed November 18, 1969

Comes now HAROLD O. SWANK, Director, Department of Public Aid of the State of Illinois, one of the defendants herein, by WILLIAM J. SCOTT, Attorney General of the State of Illinois, his attorney, and answering the Motion For Summary Judgment and Default Judgment of plaintiffs LOVERTA ALEXANDER and JEROME ALEXANDER, two of the four plaintiffs herein, says:

I

Plaintiffs' Motion for Default Judgment is not directed against this defendant.

II

This defendant denies that there is no fact in dispute in his action or that there is no fact in dispute in this action which is material to a disposition of plaintiffs' motion for a summary judgment so as to allow plaintiffs' said motion.

III

Further answering plaintiffs' said motion, this defendant says that the depositions of the four plaintiffs recently taken by this defendant not only show that these plaintiffs are not entitled to a summary judgment, but show that judgment herein should be entered in favor of the defendants, and in support of the same attached hereto, as Exhibit A, a summary of the pertinent testimony under oath of plaintiff JEROME ALEXANDER, and, as Exhibit B, a summary of the pertinent testimony of plaintiff LOVERTA ALEXANDER.

IV

Also attached hereto is a copy of plaintiff JEROME ALEXANDER'S school record, and his ability as a basketball player, both obtained in discovery procedure by this defendant in this case.

V

For a further answer this defendant says that the appropriation relative to this case has lapsed.

WHEREFORE, this defendant moves this court to:

1. Deny plaintiffs' Motion for Summary Judgment;
2. Enter judgment in favor of this defendant and against plaintiffs JEROME and LOVERTA ALEXANDER.

WILLIAM J. SCOTT
Attorney General
State of Illinois
Attorney for defendant,
HAROLD O. SWANK

BERNARD GENIS
Assistant Attorney General
of Counsel

[Affidavit of Service (omitted in printing)]

EXHIBIT "A"

DEPOSITION OF JEROME ALEXANDER, ONE OF THE PLAINTIFFS HEREIN, TAKEN FOR THE PURPOSE OF DISCOVERY BY DEFENDANT SWANK ON WEDNESDAY, AUGUST 6, 1969, THE ORIGINAL OF WHICH WAS SUBSEQUENTLY FILED IN THIS CAUSE.

The following is a summary of the more pertinent parts of Mr. Jerome Alexander's deposition:

The numbers in parenthesis refer to the page of the deposition where the testimony can be found.

Mr. Jerome Alexander testified that he was born on August 11, 1950, and consequently is now 19 years of age (p. 4). He was scheduled to graduate from Chicago Vocational High School in June 1968 but was short in his credits and consequently did not graduate until the end of the summer session of 1968 (p. 5). After graduating from high school he did odd jobs and played basketball (p. 5). On September 16, 1968; he started at Wilson Junior College (p. 6). Last year he played basketball and participated in three summer basketball tournaments (p. 7). The members of the team have to pay to play in these tournaments and hope to win individual trophies (p. 7). He played basketball in the third and fourth year in high school, and was first string center in his senior year. In the summer tournaments you play nearly every day (p. 8). In the summer of 1968, besides playing basketball he worked one week as a counselor at Camp Algonquin, a branch of the United Charities, for which he received free room and board and was paid $55.00 (p. 10). He has not applied for any scholarships but hopes to go to college on a basketball scholorship (p. 12). He is taking a General Liberal Arts Course at Junior College (p. 13). Wilson Jr. College which he is attending is a two-year course. You are supposed to take thirty hours of work a year so as to stay out of the draft. (p. 14). He has between seventeen and twenty-three hours credit. He does not know if it is seventeen or twenty-three. He took fifteen hours of courses in his first semester and twelve in his second semester. In his first semester, he

passed eleven hours and failed four hours. He does not remember how he did the second semester which ended in June. He did not have this information with him (p. 15). He thinks that in the semester that just ended in June that he passed nine hours and failed three (p. 16). You need sixty hours of credit to complete the course which is a two-year course and to get a two year degree. He plays basketball for Wilson Junior College and is a forward on the second team (p. 17). He practices basketball with the team from 3:00 p.m. to 6:00 p.m. daily from November to April (p. 18). Besides going to school and playing basketball he does odd jobs. He makes about five to seven dollars a week doing this (p. 19).

Some weeks he earns less and some weeks he earns a lot more. On Saturdays and Sundays he sometimes coaches grammer school basketball teams for which he is sometimes paid (p. 21). After finishing Wilson Junior College, he hopes to go to the University of Illinois on a scholarship, athletic or academic (p. 22). He receives $46.20 per month for old age assistance insurance (p. 23) through his father but does not know why. His mother gets $111.00 per month general assistance (p. 24). This year the school year ended June 6 (p. 25). He could not find a job so he has been playing basketball all summer (p. 27). He spends five to six hours every day playing basketball and occasionally on Saturday and Sunday (p. 27), also sometimes in the evening. He does not get paid for this and usually he has to pay to play (p. 28).

He does not believe that if he stopped playing basketball and spend more time studying that his grades would be any better. He stated " . . . ever since I started playing basketball it's been a part of my life, a main part of my life and like to play basketball, to have to eat it, live it, and drink it and that is what I do." (p. 29) He does not feel that his current credits will qualify him for the University of Wisconsin or any State University but hopes that they will get better. He believes that his basketball ability is good enough to qualify him for an athletic scholarship to the University of Illinois or any other University (p. 30).

He received a letter from the United Charities this summer asking him to come to work for a week like he had done before (p. 22, but he did not know if he would take it or whether he would play basketball. In 1967, he worked at Camp algonquin for two months and received $115.00 per month (p. 33). He did not apply for this job again this summer because he wanted to play basketball here (p. 34). He did not apply last summer for this job for the same reason, besides there are no girls there. He dates girls. They go to movies, dances, to the beach and museums (p. 35). He has a girlfriend and has had her for three years (p. 36).

He lives in a 2½ room apartment. His mother does most of the housework. He does a little (p. 37). They have a television set and a radio at home (p. 38). He used to baby-sit and sometimes he was paid (p. 40). He has boyfriends and he visits with them and they go places and do things (p. 42). His draft status is 2-S, student deferment (p. 43). He took the A.C.T. (American College Test) and the S.A.T. (Scholastic Aptitude Test) but, apparently, did not make it (p. 44). He will not quit school to go to work if the State of Illinois is able to find a job for him. He will not quit basketball to accept a part-time job if the State is able to find one for him (p. 46).

In his second semester he took twelve hours of work which is less than three hours per day (p. 48). He will not accept a part time job if it interferes with his basketball. He would like to go into the pros. He thinks he is fairly good enough (p. 54). He is six feet three or four inches tall and weighs 175 to 180 pounds.

EXHIBIT "B"

DEPOSITION OF LOVERTA ALEXANDER, TAKEN FOR THE PURPOSE OF DISCOVERY BY DEFENDANT SWANK ON WEDNESDAY, AUGUST 6, 1969, THE ORIGINAL OF WHICH HAS BEEN FILED IN THIS CAUSE.

The following are the pertinent facts disclosed by the above deposition:

Mrs. Alexander testified that she lives with her son, Jerome (p. 2). That she also has a married daughter who has five children and who live a mile away. Her married daughter is separated from her husband and is on ADC (Aid To Dependent Children) (p. 3).

The mother gets $111.00 a month General Assistance and Jerome gets $46.60 a month because of his father's disability (p. 4). He gets this because he is under twenty-one and his father is disabled (p. 5). She does not know where Jerome's father is (p. 5). She is 58 years of age and was born on July 17, 1911 (p. 6). She pays $87.50 per month rent for 2½ rooms and it includes utilities (p. 7). She used to work as a nurses aide until they closed the nursing home on August 1963 (p. 9). She tried to get other nurses aide work but could not get it because they said she was over 40. She is able to take care of herself physically (p. 10). She is able to take care of her apartment, do the cooking and manage the shopping (p. 11). She will not take work as a baby-sitter. She approves of her son's basketball activities. She said "that is his heart. That is his mind." "That is what I want . . ." (p. 13).

She stays home all day, except when it is necessary to go to the clinic or the store (p. 14). Her son does not turn over to her the money he makes on his odd jobs. He does give to her the disability money that he gets (p. 16). Some of the General Assistance that she gets is for her son (p. 17).

Name ALEXANDER, Jerome Willie Lee Address 6531 South Kimbark

Place of Birth Chicago, Illinois Date of Birth 8/11/50 Sex Male

HIGH SCHOOL CREDITS

Tr

From Dunbar Vocational High School (Summer School) X

Date of Graduation 8/16/68 Rank in Class 458/626

COLLEGE RECORD

Semester Hours	School	Standing	Tr

Course	No.	Description	Semester Hrs.	Grade
ALEXANDER	JEROME W	FALL SEMESTER		1968
BIOLO	112	GENERAL BIOLOGY	(4.0)	F
LIT	120	CONTEMPORARY BRIT-AMER LIT	3.0	C
MATH	095	PREPARATORY MATHEMATICS I	3.0	D*
GERMA	101	FIRST COURSE GERMAN	4.0	C
P E	120	GAME SURVEY	0.5	A
P E	136	ADVANCED SWIMMING	0.5	A
		GRADE POINT AVERAGE 1.21		
ALEXANDER	JEROME W	SPRING SEMESTER		1969
BUS	117	BEGINNING TYPEWRITING	2.0	D
ENGLISH	101	COMPOSITION	3.0	C
MATH	101	FUNDAMENTALS OF MATH I	(3.0)	F
GERMAN	102	SECOND COURSE GERMAN	(4.0)	F
PE M	120	GAME SURVEY	0.5	A
PE M	120	GAME SURVEY	0.5	A
		CUM POINTS 25.0 TERM G P A	0.67	
		CUM CR HRS 26.0 CUM G P A	0.96	

ACT Tests — Us. College Board Norms	Eng.	Math.	S. S.	N. Sc.	Comp.	Date
Standard	15	01	09	14	10	12/67

SPECIAL NOTES

ACADEMIC PROBATION JAN 24 '69

ACADEMIC DISMISSAL JUL 7 1969

*No Credit Toward A. A. Degree

Note: This transcript is not valid for transfer to another institution without official

WILSON CAMPUS — 7047 Stewart Ave., Chicago, [redacted]

Zip Code 60637

ISSUED BY OFFICE OF THE REGISTRAR

Date of Entrance September 9, 1968

Social Security No. 346 - 44 - 3544

Course	No.	Description	Semester Hrs.	Grade

817

EXEMPTIONS

Certified as having passed the special examination on the Constitutions of the United States and Illinois and the Code of the American Flag as per Chap. 122, Paragraph 27-3, Illinois Revised Statutes 1963.

Date

Honors

STATUS

Student is entitled to Honorable Dismissal and is in good standing unless otherwise noted.

Graduation A. A. Degree

Graduation Diploma

Z. Col

(DATE) (REGISTRAR)

[SEAL] WILSON CAMPUS
CHICAGO CITY COLLEGE

7047 South Stewart Avenue - Chicago, Illinois 60621
488-0900

Dean of Faculty
& Instruction

August 22, 1969

RE: Jerome William Lee Alexander
6531 South Kimbark 60637
Chicago, Illinois

Date of Birth: 8/11/50 Soc. Sec. # 346 44 3544
Dunbar Vocational High School graduate: 8/16/68

This student has played on the third string basketball team at this college this past season. In my opinion he is not Big Ten caliber and his chances of making it in the professional game is virtually nil.

If I may be of any further assistance to you on this matter please feel free to contact me at the College.

/s/ A. Lewis
A. LEWIS
Basketball Coach

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, et al., PLAINTIFFS,
GEORGIA TOWNSEND, et al., INTERVENORS,
-vs-
HAROLD O. SWANK, et al., DEFENDANTS

ANSWER OF DEFENDANT HAROLD O. SWANK, DIRECTOR, DEPARTMENT OF PUBLIC AID OF THE STATE OF ILLINOIS, TO PLAINTIFFS' OMEGA MINOR'S AND GEORGIA TOWNSEND'S MOTION FOR SUMMARY JUDGMENT AND DEFAULT JUDGMENT—Filed November 18, 1969

Comes now HAROLD O. SWANK, Director, Department of Public Aid of the State of Illinois, one of the defendants herein, by WILLIAM J. SCOTT, Attorney General of the State of Illinois, his attorney, and answering the Motion For Summary Judgment and Default Judgment of plaintiffs OMEGA MINOR and GEORGIA TOWNSEND, two of the four plaintiffs herein, says:

I

Plaintiffs' Motion For Default Judgment is not directed against this defendant.

II

This defendant denies that there is no fact in dispute in this action or that there is no fact in dispute in this action which is material to a disposition of plaintiffs' motion for a summary judgment so as to allow plaintiffs' said motion.

III

Further answering plaintiffs' said motion, this defendant says that the depositions of the four plaintiffs re-

cently taken by this defendant not only show that these plaintiffs are not entitled to a summary judgment, but show that judgment herein should be entered in favor of the defendants, and in support of same attach hereto, as Exhibit C, a summary of the pertinent testimony under oath of plaintiff OMEGA MINOR, and as Exhibit D, a summary of the pertinent testimony of plaintiff GEORGIA TOWNSEND.

IV

Also attached hereto is a copy of plaintiff OMEGA MINOR'S school record, obtained in discovery procedure by this defendant, in this case.

V

For a further answer, this defendant says that the appropriation relative to this case has lapsed.

WHEREFORE, this defendant moves this court to:

1. Deny plaintiffs' Motion for Summary Judgment;
2. Enter judgment in favor of this defendant and against plaintiffs OMEGA MINOR and LOVERTA ALEXANDER.

WILLIAM J. SCOTT
Attorney General
State of Illinois
Attorney for Defendant,
Harold O. Swank

Bernard Genis
Assistant Attorney General
of Counsel

[Affidavit of Service (omitted in printing)]

EXHIBIT "C"

DEPOSITION OF OMEGA MINOR, TAKEN FOR THE PURPOSE OF DISCOVERY BY DEFENDANT SWANK ON WEDNESDAY, SEPTEMBER 10, 1969, AND FILED IN THE ABOVE CAUSE ON FRIDAY, OCTOBER 3, 1969.

The following are the pertinent facts from the deposition of Omega Minor one of the plaintiffs herein:

She lives with her mother in a four-room apartment (p. 3). The rent is $70.00 per month. She graduated from grammar school in 1963 (p. 4). In August of 1966, she graduated from DuSable High School and there she took secretarial work, typing, shorthand and a business course (p. 5). She still knows how to type and was editor of the school paper (p. 6). She was Valedictorian of her class, and was in the upper five per cent of her class (p. 7).

After DuSable she went to South East Junior College (p. 11). She is taking teacher education courses, and has never discussed scholarships with anyone.

She and her mother were on ADC (Aid To Dependent Children). At age 18 her ADC stopped (p. 12). The Cook County Department of Public Aid suggested that she seek part time employment, but she did not (p. 13). The Director of students at DuSable High School suggested procedure for her for part time work but she did not pursue it (p. 14). She was not, and is not, interested in part time employment after school or on Saturdays or Sundays. She does not remember if she was put on probation after her first semester at South East Junior College (p. 15).

She was told why she was taken off of General Assistance. While attending South East Junior College, she did no work during her first summer vacation (p. 17), nor did she go to summer school. She spent her whole summer vacation studying and taking care of her mother. She studied what she had had in school and might have the next year (p. 18).

She cannot remember how many hours she claimed to study. She does not remember the grades she received her second year at Junior College (p. 19).

In the summer of 1968 she did no work, nor did she attend summer school. She started her third year at Junior College in September of 1968 (p. 20). Her mother, Georgia Townsend, also a plaintiff herein, suggested that she seek part time employment, but she decided against it (p. 23).

In the summer of 1969, she did not go to summer school, nor did she do any work. South East is a Junior City College, for the first two years of college work (p. 24). You are supposed to finish the course in two years. You need fifteen hours per semester, thirty hours per year, and sixty hours to finish. She has about forty hours in three years of attendance. She may finish in one more year, but is not sure (p. 25). She is not sure how many more hours she needs to finish. She does not know how many times she has been on probation. She does not know what her scholastic average is (p. 26). If and when she finishes South East Junior College she wants to go to Chicago State College, formerly Chicago Teacher's College. She will need a full four years more there also. She does not know if she will still need four more years there at Chicago State College or only two more years there (p. 20).

Some semesters at South East Junior College she has taken only nine hours of school work so she only went to schol three days a week and three hours during those three days a week (p. 29). Most of the time she has only taken nine hours of school work and only going to school three hours a day for three days a week (p. 29-30).

She has not been carrying a full load at school which is fifteen hours a semester (p. 30). She finally admitted that she has been on probation three semesters out of the six that she has been in school and stated that she has always known this (p. 31).

Some courses she has had to repeat. Some courses she has had to take twice and some three times (p. 32). She has never worked (p. 35). Her mother is able to dress herself, cook, and eat. Her mother goes for walks with her (p. 37). She contemplates taking a full course at

Chicago State (Teacher's) College which would be full time every day. But she does not know who will take care of her mother. She has never registered for employment and would not and will not accept any employment even part time.

At Christmas time she also stays home. She has never thought about getting typing work to do at home (p. 38). She has never done any baby-sitting (p. 39-40). Last semester for the first time she attempted to get a scholarship loan but did not have enough credits and her grades were not high enough (p. 39).

If she should become a school teacher, she does not know who will take care of her mother. She has a typewriter at home. She will be twenty-one years of age in December of this year, that is, 1969.

EXHIBIT "D"

DEPOSITION OF GEORGIA TOWNSEND (MOTHER OF OMEGA MINOR) TAKEN FOR THE PURPOSE OF DISCOVERY BY DEFENDANT SWANK SEPTEMBER 10, 1969, AND FILED IN THIS CAUSE ON OCTOBER 3, 1969.

The following are the pertinent parts of the above deposition:

Mrs. Georgia Townsend, testified that she is forty years of age and lives with her daughter Omega Minor, both of whom are plaintiffs, with others, in the above entitled matter (p. 2).

She has been receiving aid from the State of Illinois since 1962, first it was ADC (Aid To Dependent Children) and later Disability Assistance (p. 3).

She is married but does not remember when. She is separated but does not know if she is divorced. She does not know where her husband is (p. 4). She thinks she lived with her husband about a year but does not really know. She does not know the nature of her illness, has been under doctors' care for ten years, has never worked, but did do a little sewing at one time (p. 5). Currently, she sees three different doctors at the Cook County Hospital (p. 6). The doctors at Cook County Hospital have treated her for ten years. She has been either on ADC or Disability during these ten years. The Cook County Department of Public Aid pays all her hospital and doctor expenses (p. 7). She goes to the hospital every month or two to see the doctors (p. 9-10). She goes and returns by cab and the Cook County Department of Public Aid pays her cab bills. All her medicines are paid by the Cook County Department of Public Aid. At home, sometimes she walks around (p. 10). Sometimes she sits up; sometimes she is in bed (p. 11). She can feed herself if she is not too ill. She can wash herself at times, and a couple of years ago the Cook County Department of Public Aid supplied her with nursing and housekeeping care (p. 11), and the Cook County Department of Public Aid paid for this (p. 12). This housekeeper was supposed to clean, cook and take care of her but "she messed up."

(p. 12). Mrs. Townsend was not satisfied with her. She has a wheelchair paid for by the Cook County Department of Public Aid. She came to this deposition in an automobile, walked into the building, into the elevator, and into this office, assisted by her daughter and an attorney.

At one time she was confined to her bed (p. 14) but no longer is. Nor is she confined to her wheelchair now (p. 15). She does not seem interested in having a housekeeper, or having her daughter work, although she says she permitted her daughter to work, "but due to the circumstances she can't" (p. 16). She "doesn't mind" if her daughter goes to work but hedged on whether she wants her daughter to work. She says it may take all day to clean a four-room apartment and cook (p. 17), but it would not take seven days a week to do this, nor does she remember how many days a week it does take. Her daughter does everything at home, does the shopping and studies (p. 18). She says her daughter, upon completing Junior College will go full time to Chicago State (Teacher's) College but does not know what she will do then.

Nursing and housekeeping help has been provided to her on three different occasions by the Cook County Department of Public Aid but she was not satisfied with any of them. Some of them were there five days a week. The only companionship she has is her daughter (p. 19). She has no friends and very few acquaintances. She gets along fine with her daughter and does not crave anyone else. She is lonesome when her daughter is not at home (p. 20). Her daughter also took care of her when she went to grammar school and high school and her daughter did well in her studies in grammar school and high school (p. 21).

The Cook County Department of Public Aid did suggest that her daughter seek part time employment. Her daughter has no friends either. Acquaintances do visit her daughter (p. 22). Sometimes her daughter takes her for a walk. Her daughter has no boyfriends. It has been a long time since any of her daughter's girl acquaintances have been around (p. 23).

Sometimes boys come around the house (p. 23-24). Her daughter did obtain a loan for some of her school books (p. 24-25). Even if the Cook County Department of Public Aid supplied her with full time nursing care and housekeeping care at her home, she does not know if her daughter would be able to go to work. When she goes to the hospital in a cab she goes alone (p. 25). Sometimes her daughter goes with her. Her grant from the Cook County Department of Public Aid is $120.68 per month.

SOUTHEAST JUNIOR COLLEGE

Name MINOR, OMEGA LOIS Address 5111 Calumet

Place of Birth Chicago, Illinois Date of Birth 12-19-48 Sex Female

HIGH SCHOOL CREDITS

From Dusab High School Chicago, Illinois

Rank in Class Date of Graduation August, 1966

COLLEGE RECORD

Semester Hours	School	Standing	Tr

Course	No.	Description	Semester Hrs.	Grade
MINOR		OMEGA L FALL SEMESTER		1966
ENGLISH	101	COMPOSITION	3.0	D
SOC SCI	101	GENERAL SOCIAL SCIENCE	3.0	C
MUSIC	101	FUND OF MUSIC THEORY	3.0	D
MATH	101	FUNDAMENTALS OF MATH I	3.0	R
COUNSEL	101	EDUC AND VOC COUNSELING	1.0	C
		GRADE POINT AVERAGE 1.33.		
		PUT ON SCHOLASTIC PROB'M.		
OMEGA L MINOR		SPRING SEMESTER		1967
ENGLISH	100	COMPOSITION	3.0	B
MATH	095	PREPARATORY MATHEMATICS I	3.0	A
SOC SCI	102	GENERAL SOCIAL SCIENCE	3.0	D
		GRADE POINT AVERAGE 2.66		
MINOR, OMEGA L		FALL SEMESTER		67
BIOLOGY	101	GENERAL BIOLOGY	3.0	F
ENGLISH	101	COMPOSITION	3.0	D
READING	099	READING SKILLS	3.0	B
		GRADE POINT AVERAGE 1.33		
		PUT ON SCHOLASTIC PROB'M.		
OMEGA L MINOR		SPRING SEMESTER		1968
BIOLO	101	GENERAL BIOLOGY	3.0	C
ENGLI	101	COMPOSITION	3.0	B
SOC S	102	GENERAL SOCIAL SCIENCE	3.0	C
		GRADE POINT AVERAGE 2.33		

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*No Credit Toward A. A. Degree

Note: This transcript is not valid for transfer to another institution without official signature and imprint of college seal

8600 South Anthony Avenue • Chicago, Illinois 60617 • Phone RE 1-0281

ve. Chicago 15, Illinois. Date of Entrance Sept. 1966

Course	No.	Description	Semester Hrs.	Grade
MINOR OMEGA L			FALL SEMESTER 1968	
ENGLI	150	COLLEGE NEWSPAPER	1.0	B-
HUM	205	WORLD LITERATURE	3.0	C
TE MA	101	FUNDAMENTALS OF MATH I	5.0	D
POL S	204	INTERNATIONAL RELATIONS	3.0	D
		GRADE POINT AVERAGE 1.42		

PUT ON SCHOLASTIC PROB'N.

MINOR OMEGA L			SPRING SEMESTER 1969	
ENGLISH	102	COMPOSITION	3.0	C
LIT	110	INTRODUCTION TO LITERATURE	3.0	B
FRENCH	101	FIRST COURSE FRENCH	4.0	A
CUM POINTS		48.0 TERM G P A	3.10	
CUM CR HRS		22.0 CUM G P A	2.18	

ACT	1 ENGL.	2 MATH.	3 SOC. STUD.	4 NAT. SCI.	5 COMP.
	15	05	17	14	13

STANDARD SCORES

EXEMPTIONS

Certified as having passed the special examination on the Constitutions of the United States and Illinois and the Code of the American Flag as per Chap. 122, Paragraph 27-3, Illinois Revised Statutes 1953.

Date

Honors

STATUS

Student is entitled to Honorable Dismissal and is in good standing unless otherwise noted.

Graduation A. A. Degree

Graduation Diploma

(DATE) (REGISTRAR)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individualy and on behalf of her minor son JEROME ALEXANDER, GEORGIA TOWNSEND, individually and on behalf of her dependent daughter OMEGA MINOR, and OMEGA MINOR, individually, and all on behalf of all OTHER PERSONS SIMILARLY SITUATED, PLAINTIFFS,

v.

HAROLD O. SWANK, Director, Illinois Department of Public Aid and DAVID L. DANIEL, Director, Cook County Department of Public Aid, DEFENDANTS

MOTION OF DEFENDANT HAROLD O. SWANK FOR SUMMARY JUDGMENT AGAINST THE PLAINTIFFS—Filed November 18, 1969

Comes now HAROLD O. SWANK, Director, Department of Public Aid of the State of Illinois, one of the defendants herein, by WILLIAM J. SCOTT, Attorney General of the State of Illinois, his attorney, and moves the Court to enter Summary Judgment in his favor and against the four plaintiffs herein, and each of them, and in support of same says:

I

The facts disclosed by the discovery depositions recently taken under oath of the four plaintiffs herein, and of the school records of plaintiffs JEROME ALEXANDER and OMEGA MINOR, two of the plaintiffs herein, show that said plaintiffs and each of them, are not entitled to any of the recovery sought in this suit.

II

In support of same, attached hereto is a summary of the pertinent parts of said depositions, same being Exhibit A, of JEROME ALEXANDER; Exhibit B, of LOVERTA ALEXANDER; Exhibit C, of OMEGA MINOR; and, Exhibit D, of GEORGIA TOWNSEND. Also attached hereto are the said school records of plaintiffs JEROME ALEXANDER and OMEGA MINOR.

III.

Furthermore, the appropriation relative to this case has lapsed.

WHEREFORE, this defendant prays that his summary motion against the four plaintiffs and each of them be granted.

WILLIAM J. SCOTT
Attorney General
State of Illinois
Attorney for
Harold O. Swank

Bernard Genis
Assistant Attorney General
Of Counsel

[Affidavit of Service (omitted in printing)]

CLERK'S NOTE

Exhibits "A" and "B" have been omitted here. They appear on pages 65-68 supra.

CLERK'S NOTE

Exhibits "C" and "D" have been omitted here. They appear on pages 74-79 supra.

CLERK'S NOTE

School record of Jerome Alexander is omitted here. It appears on page 69 supra.

CLERK'S NOTE

School record of Omega Minor is omitted here. It appears on page 80 supra.

CLERK'S NOTE

Letter re Jerome Alexander is omitted here. It appears on page 71 supra.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER; and all other persons similarly situated, PLAINTIFFS,

and

GEORGIA TOWNSEND, individually and on behalf of her dependent daughter, OMEGA MINOR, INTERVENING PLAINTIFFS,

v.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; DAVID L. DANIEL, Director, Cook County Department of Public Aid; and MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid, DEFENDANTS.

MEMORANDUM OPINION—April 30, 1970

Before SWYGERT, Chief Circuit Judge, PERRY and MAROVITZ, District Judges.

SWYGERT, Chief Judge. This is a class action challenging the validity of Art. IV, section 4-1.1 of the Illinois Public Aid Code, Ill. Rev. Stat. ch. 23, § 4-1.1 1967),[1] and Illinois Public Aid Regulation 150 issued

[1] Section 4-1.1 of the Illinois Public Aid Code, Ill. Rev. Stat. ch. 23, § 4-1.1 (1967) provides:

Child Age Eligibility. The child or children must be under age 18, or age 18 or over but under age 21 if in regular attendance in high school or in a vocational or technical training school. "Regular attendance" as used in this Section, means attendance full time during the regular terms of such schools, or attendance part time during such regular terms as may be authorized by rule of the Illinois Department for the purpose of permitting the child to engage in employment which supplements instruction or which otherwise enhances his development toward a self-supporting status.

pursuant thereto.[2] Section 4-1.1 provides that needy children who are deprived of parental support and are between eighteen and twenty-one years of age and in regular attendance in high school, vocational school, or technical traning school are eligible to receive Aid to Families with Dependent Children (A.F.D.C.) benefits. Plaintiffs allege that section 4-1.1 is inconsistent with section 406(a)(2) of the Social Security Act, 42 U.S.C. 606(a)(2) and void under the Supremacy Clause.[3] They also assert that section 4-1.1 violates equal protection of the laws by failing to provide benefits to otherwise eligible children between the ages of eighteen and twenty-one who are attending college. We hold that section 4-1.1 is consistent with section 406(a)(2) of the Social Security Act and that it comports with the requirements of the fourteenth amendment. Accordingly, the relief requested by the plaintiffs must be denied.

This action was instituted on November 8, 1968 by plaintiff Loverta Alexander, individually and on behalf of her son, Jerome Alexander. Plaintiff's action was brought, pursuant to Rule 23(a), (b)(2) and (b)(3), Fed.R. Civ.P., on behalf of all persons similarly situated. The members of the plaintiff class include all children between the ages of eighteen and twenty-one and their parents or legal guardians who are denied A.F.D.C. benefits solely because said children are college or university students instead of high school, trade school, or vocational school students. The defendants, Harold O. Swank, David L.

---

[2] Illinois Public Aid Regulation 150 provides in part:

> Age Requirements—Dependant children under 18 years of age, unless 18 through 20 years of age and in regular attendance in high school or vocational training school. (This does not include 18 through 20 year old children in college.)

[3] Section 406 of the Social Security Act, 42 U.S.C. 606 provides in part:

> (a) The term "dependent child" means a needy child . . . (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a course of vocational or technical training designed to fit him for gainful employment.

Daniels, and Mae Withers, are officials responsible for the administration of A.F.D.C. benefits in Illinois. On March 11, 1969 Georgia Townsend intervened as plaintiff both individually and on behalf of her minor daughter, Omega Minor, and as a member of the class described in the original complaint filed by Loverta Alexander.

Plaintiffs' complaint states a cause of action under 42 U.S.C. § 1983 and is properly maintained as a class action in accordance with Rule 23, Fed.R.Civ.P. This court was correctly convened as a three-judge court pursuant to 28 U.S.C. §§ 2281, 2284 and jurisdiction to hear plaintiffs' action is proper under 28 U.S.C. §§ 1343(3), 2201.

Both plaintiffs and defendants have moved for summary judgment on the basis of material before us. All questions presented in this appeal involve issues of law and can be appropriately determined on the basis of the affidavits and pleadings. As a preliminary matter, defendants argue that the affidavits of plaintiffs demonstrate that Jerome Alexander and Omega Minor are not students in regular attendance in college and that they, therefore, lack standing to maintain this action on behalf of the plaintiff class. We disagree.

To possess standing to challenge the validity of a state statute the party seeking relief must allege " 'such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions.' *Baker* v. *Carr*, 369 U.S. 186, 204 (1962)." *Flast* v. *Cohen*, 392 U.S. 83, 99 (1968). Under this standard a needy child between the ages of eighteen and twenty-one who merely wishes to attend college might possess a personal stake sufficient to establish the requisite adverseness necessary for standing to challenge section 4-1.1. It should be undisputed, however, that standing exists if a person is actually denied benefits for any period solely because he regularly attends college rather than high school or vocational school. Thus, plaintiffs need not show that they are presently entitled to A.F.D.C. payments. We think the pleadings and the affidavits sufficiently demonstrate that Jerome Alexander and Omega Minor regu-

larly attended college in the past and were deprived of A.F.D.C. benefits as a result.

Section 4-1.1 provides that a high school or vocational school student must be in "regular attendance" in order to receive A.F.D.C. benefits. Regular attendance is defined as "attendance full time during the regular terms of such schools, or attendance part time . . . as may be authorized by rule of the Illinois Department for the purpose of permitting the child to engage in employment. . . ." The key to the interpretation of regular attendance is the meaning of "attendance full time." That term is not defined by the statute or by regulation of the Illinois Department of Public Aid.

Jerome Alexander graduated from high school on August 15, 1968, four days after he reached his eighteenth birthday. On September 11, 1968 he enrolled in fourteen hours of classes for the fall semester at Wilson Junior College in Chicago. Without express regulations to the contrary, we think this constitutes full time attendance. On October 4, 1968 defendant Mae Withers, superintendent of the Woodlawn District Office of the Cook County Department of Public Aid, acting pursuant to section 4-1.1 and Illinois Department of Public Aid Regulation 150 withdrew A.F.D.C. benefits to Jerome Alexander and his mother, Loverta Alexander. Defendants admit that the sole ground for withdrawing benefits to plaintiffs was the fact that Jerome was over eighteen and not attending high school or vocational school. Thus defendants' action on October 4, 1968 injured plaintiffs and provided them with standing to challenge the validity of section 4-1.1.

Omega Minor graduated from high school in August 1966. In September 1966 she enrolled at Southeast Junior College in courses providing thirteen hours credit. We believe that this is sufficient to constitute attendance full time within the meaning of section 4-1.1. On December 19, 1966 Omega Minor celebrated her eighteenth birthday. On January 1967, before the end of the fall term, A.F.D.C. benefits previously paid to Georgia Townsend for support of Omega were withdrawn. Again the sole reason for the cessation of benefits was plaintiff's

failure to qualify for benefits under section 4-1.1. After aid was withdrawn Omega Minor continued to attend Southeast Junior College. We think the cessation of aid in January is sufficient to give plaintiff Townsend standing to challenge section 4-1.1.

Defendants cite numerous passages from plaintiffs' affidavits to demonstrate that plaintiffs are unsatisfactory students and that they were unwilling to perform part time work. In the absence of express regulations defining full time attendance under section 4-1.1, we think these considerations are irrelevant. With standing established we now turn to plaintiffs' substantive attacks on section 4-1.1.

I. Is Section 4-1.1 Consistent With the Social Security Act?

In 1935 Congress enacted Title IV of the Social Security Act, 42 U.S.C. 601 to 644, as a federal grant-in-aid program designed to provide funds to states which establish Aid to Dependent Children Programs.[4] Section 406(a) of that title defines the class of dependent children for whom federal matching funds are available. A dependent child according to 406(a)(2) includes a child who is under eighteen or between eighteen and twenty-one years of age and a student regularly attending secondary school, college, or a course of vocational or technical training. Plaintiffs argue that states must adopt this definition in determining which persons are eligible for benefits under their own A.F.D.C. programs. We disagree.

The primary purposes of Title IV of the Social Security Act were expressed by Congress in section 401, 42 U.S.C. § 601 as follows:

> For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish finan-

[4] The program was originally known as "Aid to Dependent Children." In the 1962 amendments the name was changed to "Aid and Service to Needy Families With Children."

> cial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and maintenance of continuing parental care and protection, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children.

As is readily evident from this section, Congress was primarily interested in encouraging state participation in A.F.D.C. programs and not in establishing a uniform national welfare system. Variations among state programs were clearly envisioned as is evidenced by recognition that the purposes of the Act would be carried out "as far as practical under the conditions in such state." Congress insured that federal provisions and policies would be followed by providing for review of state programs by the Secretary of Health, Education and Welfare. Section 404(a), section 4-1.1 of the Illinois Public Aid Code on August 31, 1967. We are, nevertheless, not foreclosed from conducting our own examination to determine whether the Secretary of H.E.W. was correct in determining that section 4-1.1 is consistent with federal standards. *Dandridge* v. *Williams*, 38 U.S.L.W. 4277, 4280 (April 6, 1970). *Rosado* v. *Wyman*, 38 U.S.L.W. 4266, 4268 (April 6, 1970).

Plaintiffs maintain that section 406(a)(2) allows states a limited choice in defining "dependent children" but compels them to provide A.F.D.C. benefits either to all eligible children between eighteen and twenty-one who are students or to deny aid to all persons over eighteen. We disagree. In contrast to other sections in which Congress has mandated uniform standards or a choice of

standards in state programs; section 402(a), 42 U.S.C. § 602(a), *Dandridge* v. *Williams, supra; Rosado* v. *Wyman, supra*, the words of section 406(a)(2) do not expressly and unequivocally require states to incorporate the federal definition of dependent children in their own programs.

Furthermore, the legislative history of section 406(a)(2), which was enacted as an amendment to the Social Security Act in 1965, indicates that Congress granted states considerable flexibility in extending A.F.D.C. benefits to children over eighteen years of age. We are convinced that the range of choices granted under that section is significantly greater than plaintiffs suggest. Prior to the 1965 amendment, "dependent children" in the Social Security Act was defined in a manner nearly identical to section 4-1.1 of the Illinois Public Aid Code.[5] The Senate Committee on Finance explainted the purpose of the 1965 amendment as follows:

> Under existing law States, at their *option*, *may* continue payments to needy children *up* to age 21 in the aid to families with dependent children program, providing they are "regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent or regularly attending a course of vocational or technical training designed to fit him for gainful employment." The committee added an amendment extending this provision so as to *include* needy children under 21 who are regularly "attending a school, college, or university." Federal sharing for this purpose [would thus be available to States who implement such a program for payments to children regularly attend-

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[5] Prior to the 1965 amendment, section 406(a) of the Social Security Act defined a dependent child to include:

> a needy child (2) who is (A) under the age of eighteen of (B) under the age of twenty-one and . . . a student regularly attending a high school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training designed to fit him for gainful employment.

> ing a college, or university, as well as those attending high school or a vocational school, thus bringing this provision more nearly in line with the provision of the bill relating to the continuation of a child's benefit under the OASDI system. 1965 *Cong. & Admin. News* 2087.

The Committee report does not state or even imply that programs including provisions adopted pursuant to the 1964 amendment were invalidated by the 1965 amendment to section 402(a)(2); instead, the report strongly suggests that the purpose of the 1965 amendment was merely to extend the availability of federal matching funds for states who wished to enact provisions providing for aid to dependent children and needy college students between ages eighteen and twenty-one. Plaintiffs rely heavily upon the H.E.W. *Handbook of Public Assistance*, Pt. IV §§ G-3210, G-3220 (1967), to demonstrate a contrary intent. Although the Handbook offers several additional explanations for Congress' action, we find nothing contrary to the intent expressed in the Committee report to make the adoption of the definition contained in section 406(a) discretionary with the states. In summary, therefore, we hold that section 4-1.1 is not at variance with section 406(a)(2) of the Social Security Act.

Our holding is consistent with the Supreme Court's decision in *King* v. *Smith*, 392 U.S. 309 (1968). That case involved Alabama's so-called substitute father regulation which denied A.F.D.C. benefits to children of a mother who "cohabits" in or outside her home with any single or married able-bodied man. The regulation had not been approved by H.E.W. The Court held that the Alabama regulation, by punishing children because of immoral acts of their mothers, operated in a fashion in direct conflict with the paramount objective of Title IV, protecting dependent and needy children. *Accord, Doe* v. *Shapiro*, 2 CCH POV. LAW REP. ¶ 10, 171 (D.C. Conn. August 5, 1969). We agree with plaintiffs that permitting dependent children to complete their education is at least in part a purpose of the Social Security

Act. We are of the opinion, however, that this purpose is not so central and overriding as to require us to hold that section 4-1.1 of the Illinois Public Aid Code is void under the Supremacy Clause.[6]

II. Does section 4-1.1 Violate the Equal Protection Clause?

Section 4-1.1 and Public Aid Regulation 150 create two classes of poor families with dependent children different only in that in one the dependent child attends college and in the other attends high school, vocational school, or technical training school. The latter class is entitled to A.F.D.C. benefits while the former is not. We must, therefore, determine whether classification on the basis of the type school which a dependent child attends is irrational, arbitrary, and in violation of the Equal Protection Clause of the fourteenth amendment.

The standard by which courts should determine the constitutionality of state welfare provisions under the fourteenth amendment has been a subject of considerable dispute since the Supreme Court's decision in *Shapiro* v. *Thompson*, 394 U.S. 618 (1969); *see Rothstein* v. *Wyman*, 303 F.Supp. 339 (S.D.N.Y. 1969); *Napper* v. *Wyman*, 305 F.Supp. 429 (S.D.N.Y. 1969). In *Shapiro* the Court intimated, without deciding, that the states must demonstrate a "compelling state interest" to sustain state welfare statutes since legislative classifications may deny recipients "food, shelter, and other necessities of life," *Shapiro, supra*, at 627. We believe that the appropriate standard has been conclusively determined, however, in the recent case of *Dandridge* v. *Williams*, 38 U.S.L.W. 4277 (April 6, 1970).

In that case the Court was asked to determine whether a Maryland statute imposing an upper limit on the total amount of welfare benefits which any one family may

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[6] Our holding is also consistent with *Rosado* v. *Wyman, supra*. In that case the New York legislature altered its benefits in a manner directly in conflict with the Congressional purposes in enacting section 402(a)(23), 42 U.S.C. § 602(a)(23), a provision expressly requiring uniformity of standards in state programs.

receive violated the fourteenth amendment. In upholding the provision the Court commented as follows:

> [H]ere we deal with state regulation in the social and economic field, not affecting freedoms guaranteed by the Bill of Rights, and claimed to violate the Fourteenth Amendment only because the regulation results in some disparity in grants of welfare payments to the largest AFDC families. For this Court to approve the invalidation of state economic or social regulation as "overreaching" would be far too reminiscent of an era when the Court thought the Fourteenth Amendment gave it power to strike down state laws "because they may be unwise, improvident, or out of harmony with a particular school of thought." *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 488. That era long ago passed into history. *Ferguson* v. *Skrupa*, 372 U.S. 726.
>
> In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis," it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality." *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61, 78. "The problems of government are practical ones and may justify, if they do not require, rough accommodations—illogical, it may be, and unscientific." *Metropolis Theatre Co.* v. *City of Chicago*, 228 U.S. 61, 69-70. "A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426.
>
> To be sure, the cases cited, and many others enunciating this fundamental standard under the Equal Protection Clause, have in the main involved state regulation of business or industry. The administration of public welfare assistance, by contrast, involves the most basic economic needs of impoverished

> human beings. We recognize the dramatically real factual difference between the cited cases and this one, but we can find no basis for applying a different constitutional standard. See *Snell* v. *Wyman*, 281 F.Supp. 853, aff'd, —— U.S. ——. It is a standard that has consistently been applied to state legislation restricting the availability of employment opportunities. *Goesaert* v. *Clearly*, 335 U.S. 464; *Kotch* v. *Board of River Port Pilot Comm'rs*, 330 U.S. 552. See also *Flemming* v. *Nestor*, 363 U.S. 603. And it is a standard that is true to the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their views of wise economic or social policy. *Dandridge* v. *Williams*, 38 38 U.S.L.W. 4277, 4281. (footnotes omitted).

When this standard is applied we find that section 4-1.1 is constitutional.

Defendants maintain that section 4-1 is designed primarily to permit dependent children to obtain sufficient education to become employable. They argue that special benefits to needy children in high school or vocational school are justified since "persons over 18 who are still in high school are educationally slow, and persons in vocational schools, generally speaking, are not on an intellectual par with other students are less able to presently support themselves." The overall purpose of the enactment is to conserve state funds and to promote governmental economy.

The limited nature of our review compels us to uphold section 4-1.1. It is undisputed that the twin goals of aiding needy children to become employable and of insuring fiscal integrity of state welfare programs are legitimate state interests. And, although we are inclined to question the wisdom of extending aid only to high school or vocational school students, we agree that there is a rational connection between these legislative objectives and the classifications contained in section 4-1.1.

Accordingly, the relief requested by plaintiffs must be denied.

ENTER:

/s/ Luther M. Swygert
United States Circuit Judge

/s/ J. S. Perry
United States District Judge

/s/ Abraham L. Marovitz
United States District Judge

Dated: April 30, 1970

MAROVITZ, J. (concurring):

I concur in all respects to Chief Judge Swygert's opinion as it refers to the procedural issues of jurisdiction and standing and the substantive issue of the compatability of the challenged state statute with the federal supremacy clause. I also concur with his holding on the equal protection issue, but feel that a further exploration of that aspect of the case might be appropriate.

The Fourteenth Amendment prohibits any state from denying "the equal protection of the laws" to "any person within its jurisdiction . . . ." The original understanding of the scope and extent of the equal protection guarantee was never very clear. *Developments in the Law—Equal Protection*, 82 Harv. L. Rev. 1065, 1068-69 (1969). Over a century of experience with the principle has not resulted in either a definitive characterization of what the Constitution seeks to protect equally or even a firm standard to assist the judiciary in dealing with the many and varied problems which are presented to it. The instant case, for example, is made all the more difficult because one side wants the facts weighed under a "compelling state interest" test, while the other side has urged the "reasonable classification" guideline.

Under our Constitution, the states are not prohibited from distinguishing between or classifying citizens for

different treatment, but, traditionally, "the classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike." *F. S. Royster Guano Co.* v. *Virginia*, 253 U.S. 412, 415 (1920); *accord, Dandridge* v. *Williams*, 38 U.S.L.W. 4277, 4281 (April 6, 1970); *Avery* v. *Midland*, 390 U.S. 474, 484 (1968). There is no dispute about the fact that the Illinois statute, Ill. Rev. Stat. Ch. 23, § 4-1.1, makes a clear distinction between one person, age eighteen through twenty attending a vocational or technical training school and another person in the same age bracket and financial condition with the same family background, but who attends a college or university. The question is whether or not the different treatment afforded these two persons is grounded on a reasonable or rational basis and, therefore, constitutional or is so arbitrary and invidious as to be unconstitutional.

Essentially, the Illinois law is designed to provide financial support to economically deprived youth in order to permit them to become employable and self-sufficient. I have no difficulty at all with the statute so far as it permits a person otherwise qualified and over 18 to receive financial support until that person completes his or her secondary school education. The importance of a high school diploma to a job seeker cannot be overestimated and the equal protection clause is not violated when a state supports some persons past the demarcation line (the eighteenth birthday) if that person needs extra time in order to complete the high school program. See *Developments in the Law—Equal Protection*, 82 Harv. L. Rev. 1065, 1166-69 (1969). Nor am I much troubled by vocational training which is in lieu of high school education.

In my view, however, a serious difficulty arises when the statutory discrimination operates at the post-high school level. The state has asserted that persons enrolled in vocational training programs are intellectually inferior to those in college, but there is no documentation before us to indicate that such is uniformally or even

generally true. Conversely it may, arguably, be said that there are some persons in college who lack the physical aptitude, coordination, and mechanical ability of vocational students. For instance, a person may be suited by talent and temperament to be an excellent poet or attorney, but not an automobile mechanic or television repairman. In this sense, he could only become economically self-sufficient with a college education, just, as the state contends, another person can only become employable through advanced vocational training.

If all factors in the national or local employment situation were equal, that is, if incentives to learn white and blue collar trades and the supply and demand for professional and labor positions were the same, the reasonable basis for the statuatory distinction would not be apparent. However, the skills of manual laborers are in short supply. See "Why manual jobs go begging", Chicago Daily News, April 13, 1970, at 41, cols. 4-8. Evaluated as a means of utilizing limited state funds in an effort to channel persons into those employment positions for which the society has great need, the statutory discrimination between college students and post-high school vocational trainees is not purely arbitrary or invidious, but rather, a rational approach designed to correct a perceived problem. Certainly, the statutory scheme is grounded in a more realistic basis than other situations where the judiciary has invoked its imaginative powers to justify state action. See, e.g., *Kotch* v. *Board of River Port Comm'rs*, 330 U.S. 552 (1947).

In benefiting post-high school but not college students who are otherwise qualified, the Illinois approach is one of "under-inclusion." See *Developments in the Law—Equal Protection*, 82 Harv. L. Rev. 1065, 1084-86 (1969). The *Dandridge case*, 38 U.S.L.W. at 4282, is the most recent in a long line of Supreme Court decisions which, essentially, have held that under-inclusion which results from a state's attempt to do what it can within its means does not result in a denial of equal protection. See also, *Williamson* v. *Lee Optical, Inc.*, 348 U.S. 483, 489 (1955); *Buck* v. *Bell*, 274 U.S. 200, 208 (1927); *Linsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61, 78-79 (1911).

Plaintiffs have also suggested that the Illinois law, besides generally discriminating against brains in favor of brawn, would also discriminate between persons who pursue the same profession, but in different ways. For example, a girl enrolled in a nurses' training course would be eligible for welfare support, but one attending college and majoring in nursing would not so qualify. Under *Dandridge*, 38 U.S.L.W. at 4281, however, we cannot say that this theoretical imperfection amounts to a denial of equal protection or makes the Illinois statute unconstitutional.

As to the wisdom of the Illinois law, we make no comment. It is incumbent upon the judiciary to avoid the pitfalls similar to those in a substantive due process analysis. See L. Hand, The Bill of Rights 70-72 (Atheneum ed. 1964). We can only repeat what Mr. Justice Cardozo said in another context:

> "Whether wisdom or unwisdom resides in the scheme of benefits set forth . . . is not for us to say. The answer to such inquiries must come from (the legislature), not the courts. Our concern here, as often, is with power, not with wisdom."
> *Helvering* v. *Davis*, 301 U.S. 619, 644 (1937).

Having decided that Illinois has not violated the supremacy clause or denied plaintiffs the equal protection of the laws, our opinion ends.

ENTER:

/s/ Abraham L. Marovitz
United States District Judge

Dated: April 30, 1970

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENING PLAINTIFFS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL., DEFENDANTS

MOTION FOR RECONSIDERATION—Filed May 11, 1970

Plaintiffs LOVERTA ALEXANDER and JEROME ALEXANDER, by their counsel, respectfully move, pursuant to Rules 52(b) and 59(a) and (e), Federal Rules of Civil Procedure, to vacate the judgment entered herein on April 30, 1970, and for reconsideration of the above cause, and in support thereof state as follows:

1. The above entitled cause was orally argued before the three judge court on November 21, 1969, and was taken under advisement.

2. On April 6, 1970, the United States Supreme Court said in *Rosado* v. *Wyman*, 38 L.W. 4268, —— U.S. ——:

> Whenever possible the district courts should obtain the views of HEW in those cases where it has not set forth its views, either in a regulation, published opinion, or in cases where there is real doubt as to how the Department's standards apply to the particular state regulation or program.

3. On April 30, 1970, the three judge Court herein rendered its decision holding, inter alia, that a provision of the Illinois Public Aid Code, Ch. 23 § 4-1.1, Ill. Rev. Stat., and Illinois Public Aid Regulation 150 issued pursuant thereto were not inconsistent with the Federal Social Security Act. In that connection, this Court noted that the "Secretary of H.E.W. approved Section 4-1.1 of the Illinois Public Aid Code on August 31." The current views of H.E.W. were never invited by this Court.

4. On April 27, 1970, Joel Cohen, Deputy General Counsel of the Department of Health, Education and Welfare informed James Spitzer, who is of counsel in this cause, that H.E.W. would submit its views in this matter if requested to do so by the Court.

5. It is possible that at this time the Secretary of H.E.W., in light of his own regulations, might well indicate that Section 4-1.1 of the Illinois Public Aid Code and Regulation 150 are inconsistent with federal law.

6. The interests of justice and of all the parties herein would seem to be best served by withholding entry of final judgment herein pending an opportunity for H.E.W. to express its views on the question whether Section 4-1.1 of the Illinois Public Aid Code and Illinois Regulation 150 are consistent with 42 U.S.C. 606(a)(2) and H.E.W. Regulations.

WHEREFORE, plaintiffs pray that the judgment entered on April 30, 1970 be vacated, and that the cause be reconsidered with an invitation to H.E.W. to express its views on the issues presented herein.

Respectfully submitted,

/s/ Melvin B. Goldberg
Attorney for Plaintiffs
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[Notice of Motion for Reconsideration (Omitted in Printing)]

[Certificate of Service (Omitted in Printing)]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENING PLAINTIFFS

vs.

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL., DEFENDANTS

INTERVENORS' MOTION FOR RECONSIDERATION—
Filed May 11, 1970

Intervening Plaintiffs GEORGIA TOWNSEND and AMEGA MINOR, by their counsel, respectfully move, pursuant to Rules 52(b) and 59(a) and (e), Federal Rules of Civil Procedure, to vacate the judgment entered herein on April 30, 1970, and for reconsideration of the above cause, and in support thereof state as follows:

1. The above entitled cause was orally argued before the three judge court on November 21, 1969, and was taken under advisement.

2. On April 30, 1970, the three judge Court herein rendered its decision holding, inter alia, that a provision of the Illinois Public Aid Code, Ch. 23 § 4-1.1, Ill.Rev. Stat., and Illinois Public Aid Regulation 150 issued pursuant thereto were not inconsistent with the Federal Social Security Act. In that connection, this Court noted that:

> "In contrast to other sections in which Congress has mandated uniform standards or a choice of standards in state programs; Section 402(a), 42 U.S.C. § 602(a), *Dandridge* v. *Williams*, supra; *Rosado* v. *Wyman*, supra, the words of section 406(a)(2) do not expressly and unequivocally require states to in-

corporate the federal definition of dependent children in their own programs."

3. The Court should consider that the definition of "dependent children" given by 42 U.S.C. § 606(a) says, "When used in this part—" which means Part A of Subchapter IV of the Social Security Act. The definition of "dependent child" is used throughout Part A including § 602(a), a section in which Congress has mandated uniform standards. (King v. Smith, 392 U.S. 309 (1968).) Thus Section 402(a)(8)(A)(i) mandates that:

> (a) A State plan for aid and services to needy families with children must (8) provide that . . . the State agency—(A) shall with respect to any month disregard—(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college or university, or a course of vocational or technical training designed to fit him for gainful employment.

This is a mandated uniform standard for disregarding earned income of dependent children including college and university students.

4. The Court should consider that 42 U.S.C. § 602(a)(10) requires the furnishing of aid to families with *dependent children* with reasonable promptness to all eligible individuals. The mandatory provision that all eligible individuals receive and requires some legal standard of eligibility. That legal standard imposed on the states is "dependent child", the definition of which is set forth in 42 U.S.C. § 606(a). This is the standard which the States must follow. If the definition of dependent children is not incorporated into the mandatory requirements of 42 U.S.C. § 602(a), then a state may set any age limit it desires. It might, for example, define dependent child as being under twelve years of age, or sixteen years of age. This would clearly defeat the intent of Congress.

5. The interests of justice and of all the parties herein would seem to be best served by withholding entry of final judgment herein pending an opportunity to more fully reconsider whether § 4-1.1 of the Illinois Public Aid Code and Illinois Regulation 150 are consistent with 42 U.S.C. 606 (a) (2) and 602(a) and H.E.W. Regulations.

WHEREFORE, plaintiffs pray that the judgment entered on April 30, 1970 be vacated, and that the cause be reconsidered.

Respectfully submitted,

/s/ Michael F. Lefkow
Attorney for Plaintiffs-Intervenors
Community Legal Counsel
116 South Michigan Avenue
Chicago, Illinois 60603
726-0157

[Notice of Motion for Reconsideration (Omitted in Printing)]

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Name of Presiding Judge, Honorable A. L. MARCOVITZ

Cause No. 68 C 2134 Date June 12, 1970

Title of Cause Alexander et al
vs Swank et al

Brief Statement of Motion Hearing of plaintiffs' motions for vacating judgment and

The rules of this court require counsel to furnish the names of all parties entitled to notice of the entry of an order and the names and addresses of their attorneys. Please do this immediately below (separate lists may be appended).

for reconsideration

Names and Addresses of moving counsel

Representing

Names and Addresses of other counsel entitled to notice and names of parties they represent.

It is Ordered that plaintiffs' motions for vacating judgment and for reconsideration are hereby denied as to all issues.

Reserve space below for notations by minute clerk

Surgent e.o.
Penny e.o.
Marovitz e.o.

JUN 12 1970

Hand this memorandum to the Clerk.
Counsel will not rise to address the Court until motion has been called.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, individually and on behalf of her minor son, JEROME ALEXANDER, and all other persons similarly situated, PLAINTIFFS-APPELLANTS

and

GEORGIA TOWNSEND, individually and on behalf of her dependent daughter, OMEGA MINOR, INTERVENING PLAINTIFFS

v.

HAROLD O. SWANK, Director, Illinois Department of Public Aid; DAVID L. DANIELS, Director, Cook County Department of Public Aid; and MAE WITHERS, Supervisor, Woodlawn District Office, Cook County Department of Public Aid, DEFENDANTS-APPELLEES

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed July 14, 1970

Notice is hereby given that LOVERTA ALEXANDER and JEROME ALEXANDER, plaintiffs in the above named case, hereby appeal to the Supreme Court of the United States from the final judgment of this court entered in the above captioned proceeding, pursuant to Title 28 U.S.C. section 1253, and further:

1) That said appeal is being taken from the final order of this three judge court denying plaintiffs' motion for summary judgment, granting defendants' motion for summary judgment and thereby dismissing plaintiffs' Complaint for declaratory judgment and injunctive relief.

2) Said orders were entered on April 30, 1970 by Chief Circuit Judge Swygert and District Judges Perry and Marovitz.

3) Plaintiffs' motions for vacating judgment and reconsideration of the cause were denied on June 12, 1970.

Respectfully submitted,

/s/ Melvin B. Goldberg
Attorney for Plaintiffs
Alexander

Cook County Legal Assistance
Foundation, Inc.
19 South La Salle Street
Chicago, Illinois 60603
ANdover 3-2267

[Certificate of Service (Omitted in Printing)]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

[File Endorsement Omitted]

LOVERTA ALEXANDER, ET AL., PLAINTIFFS,
GEORGIA TOWNSEND, ET AL., INTERVENING PLAINTIFFS

vs.

HAROLD O. SWANK, Director of the Illinois Department of Public Aid, ET AL., DEFENDANTS

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed July 14, 1970

Notice is hereby given that GEORGIA TOWNSEND and OMEGA MINOR, the intervening plaintiffs in the above entitled cause, hereby appeal to the Supreme Court of the United States from the final order of April 30, 1970, denying intervening plaintiffs' motion for summary judgment, granting defendants' motions for summary judgment, and dismissing intervening plaintiffs' complaint for declaratory judgment, injunctive relief and damages, and the order of June 12, 1970, denying as to all issues intervening plaintiffs' motion to vacate the judgment of April 30, 1970, and to reconsider the cause.

This appeal is taken pursuant to 28 U.S.C. § 1253.

/s/ Michael F. Lefkow
Attorney for Intervening Plaintiffs

MICHAEL F. LEFKOW
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[Certificate of Service (Omitted in Printing)]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

LOVERTA ALEXANDER, ET AL., PLAINTIFFS

vs.

HAROLD O. SWANK, ET AL., DEFENDANTS

The deposition of JEROME ALEXANDER, called by the Defendants for examination, pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before a Notary Public within and for the County of Cook and State of Illinois, on the 6th day of August, A.D. 1969, at the hour of 10:00 o'clock, A.M., at 160 North La Salle Street, 9th Floor, Chicago, Illinois, pursuant to Notice and Agreement.

PRESENT: MR. MELVIN B. GOLDBERG appeared on behalf of the Plaintiffs;

[fol. 2] HON. WILLIAM J. SCOTT, Attorney General, by MR. BERNARD GENIS, Assistant Attorney General appeared on behalf of the Defendant, Harold O. Swank;

HON. EDWARD V. HANRAHAN, State's Attorney, by MR. DEAN H. BILTON, Assistant State's Attorney, appeared on behalf of the Defendants, David Daniel and Mae Withers.

MR. GENIS: These depositions of Loverta Alexander—what is your name?

THE WITNESS: Jerome Alexander.

MR. GENIS: Georgia Townsend and Omega Minor, the four plaintiffs herein, are being taken pursuant to a Notice that our office served on July 18, 1969. The origi-

nal Notice was for the taking of these depositions on Wednesday, July 30, 1969 in the office of the Attorney General, Room 900, State of Illinois, 160 North La Salle Street, Chicago, Illinois.

Subsequent thereto we were served with a Notice by the attorneys for the plaintiffs that they were appearing before His Honor Judge Marovitz to move that our Notice to take these depositions be quashed.

The plaintiffs did appear in the Federal Court for that purpose. Judge Marovitz was on vacation so they appeared [fol. 3] before His Honor Judge Perry and Judge Perry denied the plaintiffs' motions. They appeared before Judge Perry on Wednesday, July 30, 1969, which was the date that these depositions were originally scheduled for.

After Judge Perry denied said motions, the attorneys for the plaintiffs and the attorneys for the defendants agreed to take these depositions this past Monday which, I believe, was August 4th but subsequently we receievd telephone call from Mr. Goldberg that Mr. Lefkow, who represents Georgia Townsend and Omega Minor, would not be able to be there.

MR. GOLDBERG: The problem was that Omega Minor and Georgia Townsend were unable to come down.

MR. GENIS: Yes, Georgia Townsend and Omega Minor were unable to be here on Monday, August 4th, so, therefore, they suggested a date of Wednesday, August 6th which is today and, therefore, that is why we are here today.

Miss Court Reporter, would you please swear Mrs. Alexander and Jerome Alexander.

(Witnesses sworn.)

Now, sir, will you kindly speak up so everybody in this room can hear you.

[fol. 4] THE WITNESS: Okay.

JEROME ALEXANDER,

having been first duly sworn, deposeth and saith as follows:

EXAMINATION BY MR. GENIS

Q Will you please state your name?
A Jerome Alexander.
Q Where do you live, sir?
A 6531 South Kimbark Avenue
Q That is in Chicago, Illinois?
A Chicago, Illinois.
Q And you are one of the plaintiffs in this case, is that right, sir?
A Yes, sir.
Q Jerome, when were you born?
A August 11, 1950.
Q So you are now eighteen years of age?
A Yes, sir.
Q And in a few days from now you will be nineteen?
A Yes, sir.
Q Did you graduate from high school?
A Yes, sir, I did.
[fol. 5] Q What high school did you graduate from?
A Chicago Vocational High School, sir.
Q When?
A Well, sir, I was scheduled to graduate with my class in June but I went to summer school and graduated in August and still received by diploma from the Chicago Vocational High School.
Q Could you speak a lttle louder. I heard what you just said, but hereafter.
You graduated in August of what year?
A Of 1968.
MR. GOLDBERG: Can we let the record reflect the presence of the Assistant State's Attorney, Dean Bilton.
MR. BILTON: B-i-l-t-o-n.
MR. GENIS: Who represents—
MR. BILTON: David Daniel and Mae Withers.

BY MR. GENIS:

Q Jerome, after you graduated in 1968 what did you do then?
A Well, after summer school was over I looked for a job, tried to get a job and I didn't have any apparent

luck so I just played ball and did odd jobs, the same I am doing now.

[fol. 7] Q You stated that you also played ball?

A Yes, sir.

Q What kind of ball?

A Basketball. Participated in about three summer tournaments last year.

Q I don't hear.

A I participated in about three summer tournaments last year.

Q Three summer tournaments?

A Yes.

Q And who did you play with? What team?

A Well, it wasn't any school team, sir. It was just a group of boys that get together and decide they want a team.

You pay—you find out where a tournament is. You pay the certain amount of money, maybe a dollar a man or dollar and a half a man and hope to take first, second or third place where you get—where you might win an individual trophy.

At Dunbar it was sponsored by the Chicago Park District. And the Hyde Park Club sponsored one and the Woodlawn Boys Club.

Q And does each team have to pay an entrance fee?

A Yes, sir, they do. That is the general principals [fol. 8] for trophies.

Q And how much is the entrance fee?

A Well, it varies. Down at Dunbar it was a dollar and—

Q Dollar per team or per man?

A Per man. The team usually consisted of ten to fifteen men. Most cases, ten.

At the Woodlawn Boys Club it was a dollar and a half and Hyde Park Neighborhood Club, it was a dollar and a half.

Q Had you played basketball in high school?

A Yes, sir, I did. I went out my junior year and I sat on the bench the full season. And in my senior year I started.

Q And did you make the team?

A Yes, sir, I mean second season I was first string center.

Q And for how long in the summer of '68 did you play basketball?

A Well, summer school finished about August 15th so roughly it was about a month left before school started at Wilson so about two and a half of those weeks I was out applying for a job and the other two weeks I was playing in the tournament where you play nearly every day or [fol. 9] every other day.

Q What sourt of course did you take in high school?

A Well, vocational school is a trade school so I took—your first two years you take general courses and basic shops, decide what you want to major in.

When I first left grammar school I wanted to be a mechanical engineer. Therefore, you have to major in machine drafting.

Well, when I became—when I went to CVS I changed my mind and I took a few shops like horticulture, auto and print shop. Then in my 2A semester I took machine shop which I decided for my major and I majored in machine shop which is learning to be a machinist.

You take—that is the beginning of your junior B semester. You take machine shop and that is for about four hours a day. You take your regular courses such as English, Math, et cetera.

Q Well, Jerome, when you were looking for work after you graduated from high school, did you apply to any machine shops?

A No, sir, I didn't.

Q You said you also took horticulture?

A Yes, sir.

Q Did you apply to any florists?

[fol. 10] A No, sir. Well, I took horticulture when I was a freshman and it interested me just for a period of time and like I changed my mind.

After high school, well, machine shop is a nice trade but like it's very hazardous so I didn't apply at any machine shops. I did during our school semester because our shop teacher tried to get us jobs but, you know,

everybody applied but we just—they didn't take too many from CVS.

Q They didn't take—

A They didn't take too many students from CVS at different machine shops so there wasn't any need of applying during the summer.

Q All right. What else did you do that summer besides what you have told us about?

A I don't understand.

Q Did you do anything else during the summer of 1968 besides applying for work in the department stores and playing basketball?

A Oh, yes. I went to a camp for a week and worked as a counselor.

Q What camp was that?

A Camp Algonquin. It's a branch of United Charities of Chicago. And there wasn't much pay but like it was [fol. 11] a free room and board and meals and it was interesting, you know.

Q Were you paid for that?

A Yes.

Q How much were you paid?

A About $55.00.

Q For the one week?

A For the one week.

Q Where is Wilson Junior College?

A Located at 7042 South Stuart Avenue.

Q South—

A Stuart.

Q Did you apply at any schools?

A While I was in high school I applied at Robert Morris University which is located in Georgia or Alabama, one. I am not quite sure—I don't remember. And Tuskegee Institute in Alabama.

Q Were you accepted for either one of those two?

A No, sir, I wasn't because I didn't finish with my regular class. I was a half a credit behind.

Q What was the reason that you were a half a credit behind, Jerome?

A Well, I took drafting in my second year, sir, and I didn't pass the course because I lost interest in it then.

[fol. 12] I took it in summer school and finished with a straight B average this past summer of August of '68 and I think that might be one of the majors I might take this coming semester at Wilson.

Q Did you apply for any scholarships?

A No, I didn't. I was hoping to go to college with a basketball scholarship.

Q Pardon?

A I was hoping to go in college with a basketball scholarship but you need your coaches help but the coach didn't help our team too much. He had his favorites and I guess I wasn't one of his favorites.

Q But you were the center of the first team?

A Yes, sir, I was.

Q Did your high school team win the state championship or city championship or any championships?

A We started our season, we went undefeated until—we won our first game and lost our second game. From then on we won ten straight games.

We beat high ranked Marshall from the South Side. We were at eleven to one and we were playing at the Holiday Tournament at the Amphitheatre against Du-Sable and we lost to them.

[fol. 13] So from then on we just kept losing because our coach, he didn't give us the right reaction so we kind of went—

Q What did you take up at Wilson Junior College when you started?

A My first semester I took German, Math 95 which is Algebra, Literature, Britsh Contemporary American Literature. That's about three or four courses.

Q Is there any particular type of course that you took? Does it have a name like General Liberal Arts or Prelegal or anything like that? Do they have that there?

A It would be considered Liberal Arts courses.

Q Liberal Arts courses?

A Right.

Q Do they also have other courses at Wilson Junior?

A Yes, sir, they do.

Q And you have completed how many years at Wilson Junior College?

A One.
Q And that's been Liberal Arts?
A Yes, sir, it has.
Q And how many credits have you received?
A Up to date would be between seventeen and twenty-
[fol. 14] three.
Q Now, Wilson Junior College is just a two year school, sir?
A In most cases but most students stay there for three.
Q For how long?
A For three years.
Q Three years?
A Yes, sir, they do.
Q How about Liberal Arts, is that a three-year course?
A None of the courses are really three years but you wind up staying three years because most black students when you go to school you get involved in your courses but you wind up taking three years because you usually don't pass all your courses your first year or your second year because you didn't study hard enough and there was other things conflicting with your study.
Q Well, in the normal course of events, how many semester hours should a person have if he takes a full course and passes everything per year?
A In order to stay out of the draft you are supposed to have thirty academic hours.
Q Per year?
[fol. 15] A Per year.
Q And you have how many?
A Between seventeen and twenty-three.
Q Well, do you know whether it's seventeen or twenty-three?
A Well, I don't have my information with me.
Q Did you take a full course during this past year of thirty hours?
A The first semester I took fifteen, sir. The second semester I took twelve and they don't include gym.
Q That is a total of twenty-seven hours, sir?
A Yes, sir.

Q And did you pass all twenty-seven hours?
A No, sir, I didn't. The first semester I didn't pass Advanced Biology.
Q In the first semester out of the fifteen hours that you took how many hours did you pass and how many hours did you fail?
A Four hours I failed and eleven I passed.
Q In the second semester of the twelve hours that you took how many did you pass and how many did you fail?
A Well, I don't have my reference letter. They send you a letter in the mail of your grades.
Q Well, approximately, do you know what you failed [fol. 16] this semester that just passed?
A Math 101.
Q And how many hours is that?
A Three.
Q So would it be correct to say that you passed nine hours and failed three?
A I suppose we could assume that, sir.
Q Well, you are the one who knows that best.
MR. GOLDBERG: If he doesn't remember, there is no sense in putting words in his mouth.
BY MR. GENIS:
Q I say—I mean if you know, tell us. If you don't know what you passed and what you failed—
MR. GOLDBERG: If you don't remember say so, that's all.
A Well, we will say nine and three, sir.
BY MR. GENIS:
Q Pardon?
A Nine hours passed; three hours failed.
Q Well, do you know how many hours of credit you have at the present time?
MR. GOLDBERG: You have asked that question three times and he has answered it three times.
MR. GENIS: Well, he said seventeen to twenty-three. [fol. 17] MR. GOLDBERG: That's right. He has said that three times.
A When I said seventeen to twenty-three, sir, I mean between seventeen hours. It might be eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three.

MR. GOLDBERG: He doesn't remember beyond that specific point.

BY MR. GENIS:

Q And how many hours do you need to complete Wilson Junior College?

A Sixty for a two-year course, sir. You receive a two-year degree. That is why I say some students go about three years to complete sixty hours and some of them are far more intelligent than I am.

Q Jerome, in addition to going to school what else did you do with your time during this last school year?

A I played basketball for Wilson Junior College.

Q And are you on the team?

A Yes, sir, I am.

Q And what position do you play?

A Forward.

Q And are you on the first team?

A Second team.

[fol. 18] Q And how much of that—how much time does that take of yours?

A Well, after regular class hours, about three hours, from about 3:00 o'clock until about 6:00 P.M.

Q All year?

A All year, up to April. From November to April.

Q And how about after April?

A Well, then, I didn't participate in any sports.

Q Pardon?

A After that I wasn't participating in any sports. I was going to school.

Q What else do you or did you participate in besides your classroom work and basketball?

A Not too many things to participate in at Wilson unless you participate—like we recently had a black student demonstration and we removed our Dean.

Q You did what, sir?

A We had a new Dean. Our old Dean was replaced by a black Dean, sir.

Q And you participated in this demonstration?

MR. GOLDBERG: I don't think this is a relevant line of questioning.

A No, I wasn't participating. I said that is what [fol. 19] happened. I didn't participate.

BY MR. GENIS:

Q What did you do, not what others did?

A Nothing else. Go to school. When basketball season was over I just went to school, studied, did my work.

Q Well, how much time a day do you spend studying?

A Well, it varies. Usually it's about two or three hours a day. And then like when—when I have a final exam or something coming up, it's from three to five hours.

Q Do you feel if you devoted more time to your studying you'd do better in your grades?

MR. GOLDBERG: Come on, now. I object to this line of questioning. This is irrelevant. Where is this leading us?

BY MR. GENIS:

Q Well, let me ask you this, Jerome. Outside of going to school and playing basketball, do you do any work of any kind?

A Odd jobs.

Q What kind of odd jobs?

A Well, some people that live in my neighborhood, [fol. 20] I wash their cars, their windows, help them do general housework maybe, you know, like maintenance housework like repairing something, a window or fixing up their floor, laying down linoleum tile, helping laying wall-to-wall carpeting, something like this.

Q Anything else?

A That's about it. That is mostly what I do.

Q Do you get paid for that?

A Yes, sir.

Q And how much did you make this past year doing those odd jobs?

A Well, I could estimate for you. I couldn't say exactly because, you know, people pay you different prices.

Q Well, estimate for me either by the week or the month or the year.

A Well, I'd say about—by the week it would be about between $5.00 and $7.00 maybe.

MR. GOLDBERG: Would it vary from week to week?

THE WITNESS: It would vary.

MR. GOLDBERG: Some weeks that you didn't earn anything.

THE WITNESS: Right.

[fol. 21] BY MR. GENIS:

Q And some weeks you earned a lot more?

A Yes.

Q What do you do in the evening, sir?

A Now?

Q No, during your school year.

A Well, during the school year I was playing basketball during the evenings until 6:00 o'clock. Then I would go home.

Q All right. What did you do after that?

A Eat, study.

Q How did you spend Saturdays and Sundays.

A Well, I tried to coach the little grammar school basketball team.

Q Did you get paid for that?

A Sometimes.

Q What grammar basketball team did you coach?

A St. Clair located on 64th and Woodlawn.

Q And were you paid by the Chicago Board of Education for this?

A No. They are a Catholic school.

Q Who paid you?

A Well, they have a Board of Trustees there. The black neighborhood parents which—you know, they collect [fol. 22] a fund and they will pay you for it like that.

Q And how much do you get paid for that?

A Well, it would be $25.00 a month when they paid but a lot of times the funds were low so I just went on coaching anyway because it was something that interested me and I was helping somebody that didn't get the help that I needed when I was their age.

Q What do you expect or hope to be eventually after you finish with school?

A A basketball coach or a draftsman.
Q Are you studying drafting in school now?
A I didn't study it my first year but I intend to take it up this coming year.
Q And after you finish Wilson Junior College, what do you expect to do?. Do you expect to go to another school?
A I hope so, sir.
Q Do you have any idea what school?
A Well, one out of the state probably. Maybe University of Wisconsin.
Q And how do you expect to finance yourself going to the University of Wisconsin?
A Scholarship.
Q What kind of a scholarship?
[fol. 23] A Athletic. Possibly—if possible, academic.
Q Have you made—
A No, I haven't made any applications yet.
Q Did I ask you if you have applied for any sort of scholarships?
A You asked me if I did that after I finished high school, yes. And I said no.
Q What are your various sources of income that you and your mother live on?
A Well, the old age survivors insurance and AFDC.
MR. GOLDBERG: No.

BY MR. GENIS:

Q Old age survival?
A Insurance.
Q Is that something that you get or your mother gets?
A I receive that.
Q And what does that amount to per month?
A Forty-six, twenty.
Q Forty-six, twenty?
A Right.
Q And why are you getting that, sir?
A For living principally, sir.
Q But how do you qualify for that?
[fol. 24] A Well, I believe it's through my father, sir.
Q Can you tell us the situation whereby you have qualified for this, if you know?

MR. GOLDBERG: If you don't know, you can say that you don't know.

A Well, I don't know.

BY MR. GENIS:

Q Outside of this old age survival insurance, what else comes in?

A My mother receives a check.

Q For what?

A For general principles to help her out. I guess it's like welfare. I am not sure.

Q Is that general assistance or disability assistance?

A General assistance.

Q General assistance?

A Yes, sir.

Q Do you know how much that amounts to?

A Well, sir, it was one thirty-four, ninety-two. Now it's one, eleven.

Q Per month?

A Per month.

Q What else comes in?

[fol. 25] A That's it.

Q In addition there are these various things that you earn on the side doing odd jobs?

A Yes, sir, from time to time.

Q Which amounts to about $5.00 to $7.00 a week?

A And it varies. Some weeks more, some weeks less.

MR. GOLDBERG: Let's clear the record so it's understandable and not confusing.

When did it change from $134.00 a month to $111.00? Let's make sure there's no confusion here.

THE WITNESS: I believe in November, somewhere in that area.

MR. GOLDBERG: Prior to the lawsuit here?

THE WITNESS: Right.

BY MR. GENIS:

Q November of what year?

A '68.

Q When did your school term end this summer?

A June 6th.

Q And what have you been doing, sir, since June 6th?
A Well, applied for jobs as usual.
Q Tell us where and when.
[fol. 26] A Well, I went back to the public library again because I figured—I worked there once before back in '65 when I was in high school and I quit them because of my grades. It was taking up too much time from studying and I went to the Hyde Park Co-op located on 55th.
Q What are they?
A It's in the Hyde Park Drexel Neighborhood, black and white co-op, co-operation together that is what it means. It's a very integrated neighborhood and its the only neighborhood in Chicago where the black and white people get along together.
Q Is that an employment agency?
A It's a grocery store and it was named Co-op.
Q Outside of the Chicago Public Library and this grocery store, where else did you apply?
A Well, I also applied at a few more of the department stores.
Q Pardon?
A The department stores downtown.
Q Which ones?
A Rothchild's and Marshall Field's downtown. And I had a friend worked at the Jack-in-the-Box restaurant. I applied there. And Sears on 79th Street. I went to the Illinois State Employment Service.
[fol. 27] Q You did? When?
A Roughly about the second or third week in June. They didn't have anything at the time and couldn't suggest any place so like there was no job until who knows when. So I just played ball as I always do.
Q You've been playng basketball all this summer?
A Yes, sir.
Q With whom?
A Well, I have my own team and we played earlier together in the fall tournament up at the Hyde Park Neighborhood Club and we are now participating in the Hyde Park Neighborhood Club.

Q And how much time do you spend playing basketball or practicing basketball?

A Between five and six hours maybe. It varies.

Q Pardon?

A Between five and six hours maybe. It varies.

Q Per day?

A Per day.

Q Every day?

A Every day. It varies, though. Maybe one or two some days.

Q Do you practice or play Saturdays and Sundays, too?

[fol. 28] A Occasionally.

Q And sometimes in the evening?

A Now and then.

Q Do you get paid for any of this?

A No, sir.

Q Do you have to pay entrance fees at these various tournaments that you enter?

A Well, like I said, it would cost you a dollar a man if you put a team in. Some places you can just go and you just—well, I used to be a member of the neighborhood club so I am an old member of the club so to speak. I am not a full member now but like I can go in and play ball or watch a tournament game or watch the younger boys play and help out, show them how to do different various things.

MR. GOLDBERG: For free?

THE WITNESS: For free.

BY MR. GENIS:

Q Well, do you think if you spent more time studying and less time playing basketball you might do better in your grades?

MR. GOLDBERG: I object to that question. I believe that's an irrelevent question and it certainly is not a fair question to be asked at this time. I ask my client not [fol. 29] to respond.

BY MR. GENIS:

Q Subject to your objection for the record, will you answer that?

A Let me put it like this to you, sir. I have—I like, you know, school. School is real nice and it has its ups and downs, too. I don't believe that if I stopped playing basketball that my grades would be any better. I know that if I just put my mind to it I can do both because I know what type of person I am. I know what I can achieve and, sir, ever since I started playing basketball it's been part of my life, a main part of my life and like to play basketball to have to eat it, live it and drink it and that is what I do.

And, you know, really to do anything, you just have to believe in it and believe in yourself and basketball has given me a great deal of confidence in myself so, therefore, if I just put my mind to studying harder than what I did. I studied but I didn't study hard enough. That is one reason for passing so many hours this past year. If I just put my mind to do it, I can do it and play ball, too.

Q Well, is there any particular reason why you cannot or did not put your mind to studying harder?

[fol. 30] A Well, no, sir. It's not no particular reason. I just guess—I believed in my eyes that I was studying hard and I guess I wasn't studying hard enough. It's just like when you study, I guess, when you study law. You know, when you started out you had to do so much and so hard and you did it right away the first time.

Well, I made a mistake. I didn't do it hard enough the first time so there is always a second time, you know, and the second time will be better.

Q Do you feel that your grades—your current grades in school would qualify you for the University of Wisconsin or any state university?

A Not now, sir, but at the end of this next year I believe it will.

Q Do you believe that your basketball ability is good enough to qualify you for an athletic scholarship at the University of Illinois or any other university?

A Yes, sir, I do.

Q You are currently on the second team at Wilson Junior College, correct, sir?

A Right.

Q Do you have any relatives that help you out in any way financially or materially either to you or your mother?

[fol. 31] A No, I don't.

Q Do you have any friends that help you out in any way, either financially or materially?

A No, sir, I don't.

Q Do you get anything from any charities?

A No, sir.

MR. GOLDBERG: Did you at one time get anything from charity?

THE WITNESS: Once, United Charities.

MR. GOLDBERG: What was that and how much?

THE WITNESS: $20.20.

BY MR. GENIS:

Q When was this?

A About in February or March.

Q Of this year?

A Of this year.

Q Had you applied for that?

A Well, it was made known to me by a lawyer that it was possible to receive some funds because we needed them at the time.

Q You mean Mr. Goldberg, your lawyer, told you it was available?

A Yes, sir.

MR. GOLDBERG: I suggested that they apply to [fol. 32] United Charities for some sort of assistance.

BY MR. GENIS:

Q And you did apply, sir?

A Yes, sir.

Q And you got $20.20?

A Yes.

Q And that's all?

A That's all.

Q Did you ever do any work for the United Charities?

A Well, like I told you, I worked at that camp that one week and it was a branch of United Charities.

Q And when was that? A year ago this summer?

A A year ago this summer.

Q How about this summer, did you apply for that work?

A Well, they sent me a letter, sir. They have sent me a letter.

Q Saying what?

A Asking me to come and work for a week and if I knew of anybody that needed the same kind of work that wanted to work for a week.

Q And did you?

A Well, I haven't returned the letter yet, sir.

[fol. 33] Q When is this week's work supposed to be?

A It starts August 22nd to the 31st.

Q Do you expect to apply for that?

A Possibly.

Q Or do you expect to play basketball?

A Well, I don't know, sir.

Q Did you work for the United Charities in the summer of 1967?

A Yes, sir.

Q And what did you do then for them?

A I worked for them for two months in the dining room as a kitchen helper.

Q Where?

A At United Charities Camp, Camp Algonquin.

Q And do you remember how much you made?

A $115.00 a month.

Q $115.00 a month?

A Yes.

Q And you worked two months?

A Yes, sir, from June to August.

Q Let me see if I can refresh your memory. Didn't you make $289.63?

A I didn't make that much money, sir.

Q You did not?

[fol. 34] A. We were paid every other week and when it totaled it wasn't quite that much money. Try $230.00.

Q Did you apply for the same work for the summer of '68?

A I applied—probably I applied. I don't remember. I have a friend that works there. He worked the same summer. As a matter of fact, no, I didn't apply.

Q You did not?
A No.
Q Did you apply for that this summer?
A No.
Q Was there any reason why you did not apply this summer?
A Yes. I wanted to play ball. See, you are up there and you are remote and away from everything. It's nice to go and work if you want to just lay back and relax and get mosquitoe bites and stuff like that but if you want to stay in the city where the air—it's not quite as fresh but like it's—it's a little more active to participate in basketball.
Q Is that the same reason you didn't apply last summer?
A Well, I knew I wasn't going back for a whole two [fol. 35] months. You kind of miss things in the city, you know, like girls for one thing.
Q Girls?
A Yes.
Q Do you date, sir?
A Occasionally.
Q When you date what do you do? Do you go to movies?
A Go to a movie.
Q Go to dances?
A Dances.
Q What other social activities do you participate in in addition to dating and—rather, in addition to movies and dances when you go out with the girls?
A Well, that would be about it. That is the most you can do right now.
Q Do you go swimming or things like that?
A I go to the beach occasionally. Take a girl to the beach, yes.
Q What else, sir?
A We might go a lot of places. To museums. You can take a girl to the museum. It doesn't cost you anything.
Q What else?
[fol. 36] A Come down to the library even.

Q Pardon?
A Come downtown to the library, to the Randolph Street library.
Q Do you have a girl friend?
A Yes, sir.
Q And how long have you had a girl friend?
A The same girl for three years.
Q Do you date anybody else?

MR. GOLDBERG: I fail to see the relevance of this line of questioning. It's certainly not germane to the issues here. In fact, this whole thing is really—you know, this is turning into a wild fishing expedition and I object to inquiries into his personal life.

You have asked if he goes out on a date. Yes. The answer is yes, he does once in awhile. He goes to a couple of movies and goes to a lot of free places because he doesn't have much money and I don't see whether its relevant if he goes out with one girl steady or four girls occasionally. How is that germane to this lawsuit?

BY MR. GENIS:

Q Do you have any sisters or brothers?
A I have a sister.
Q Is she older or younger?
[fol. 37] A Older.
Q Does she live with you folks?
A No.
Q Does she contribute anything?
A No, sir, she doesn't.
Q Does she help out in your home?
A No. She has her own family.
Q Pardon?
A She has her own family to look out for.
Q Do you live in an apartment building?
A Yes, sir.
Q How big an apartment is it?
A Two and a half rooms.
Q Do you do anything in the apartment?
A General housework. Wash dishes, sweep up.
Q Or does your mother do the housework?
A She does most of it. I do a little.

Q Do you have a social security number?
A Yes, sir.
Q Do you know what it is?
A 346-44-3544.
Q Do you remember when you got that?
A I guess when I was about fourteen or fifteen.
Q Do you drive a car?
A No, sir, I don't.
Q Do you know how?
A Well, I applied for a permit in '65 and I didn't have anybody to take me down there in the car because we don't own one so I reapplied for another permit not too long ago, about '66, '67. But like I haven't been behind the wheel of a car for about two or three years.
Q You have or have not been?
A I have not been.
Q Do you have a bank account?
A No, sir.
Q Do you have any insurance?
A No, sir.
Q Do you have a TV at home?
A Yes, we do. We do, sir.
Q Do you have a radio at home?
A Yes, sir, pocket size transistor.
Q Do you watch the TV?
A Occasionally.
Q What is your sister's name, sir?
A Ruby Willis.
Q Does she live near you?
A She lives over in Hyde Park.
Q How far away from you?
[fol. 39] A She lives on 54th. I live on 65th.
Q About a mile away?
A Roughly.
Q How do you get to school?
A CTA transportation.
Q Do they supply you with lunches there?
A Sir?
Q Do they supply you with lunches there?
A No, they don't.
Q Does it cost anything to go to Wilson Junior?
A You pay for your credit hours, sir.

Q How much do you pay?
A Well, to be a full time student to pay for fifteen hours I had to pay fourteen, fifty.
Q $14.50?
A That was including a lab fee.
Q Is that a semester or a year?
A Semester.
Q Do you have any other costs there?
A Well, no, that's about it, I guess.
Q Do you eat lunch there?
A Most of the time.
Q Do you have any uncles or aunts?
A Yes, sir.
[fol. 40] Q Do any of them live close by?
A No, sir.
Q Do any of them contribute to you or your mother in any way?
A No, sir.
Q Do you ever do any babysitting?
A I used to babysit for my sister.
Q Did she pay you for that?
A Sometimes.
Q Is your only activity in school now besides your studying basketball?
A Yes, sir. What other activity is there?
Q What?
A What other activities would there be?
MR. GOLDBERG: Just answer.

BY MR. GENIS:

Q I don't know. It's so long since I have gone to high school. Well, there are other types of teams as an example, aren't there?
A Teams?
Q Teams besides basketball.
A Yes.
Q You did play football at one time, didn't you?
A I went out for football in high school but like [fol. 41] I played on the junior team for the summer, you know, spring training but I didn't come back. You were supposed to practice over the summer. I wanted to stay with basketball.

Q Did you apply for the football team here in Wilson Junior?

A No, sir.

Q You were also active in dramatics at one time, weren't you, in grammar school—or high school, rather?

A In high school at the Jackson Park Field House.

MR. GOLDBERG: I fail to see the relevance of this line of questioning. The question is whether or not he's entitled to assistance while going to college, not what he did in grammar school.

MR. GENIS: One of the questions is what he does with his free time.

MR. GOLDBERG: In grammar school?

MR. GENIS: No, no.

BY MR. GENIS:

Q Now, do you participate in dramatics now?

A No, sir, I don't. I considered it.

Q Pardon?

A I have considered it.

Q I'm sorry?

[fol. 42] A I have considered it.

Q Did you attend the YMCA in any way?

A I have in the past. Not as a member. Just to go play basketball.

Q For the YMCA?

A No.

Q Just use their gym for that purpose?

A Yes, sir.

Q Outside of your girl friend, I take it you have boy friends?

A Partners, yes, friends.

Q Partners?

A Friends.

Q I don't know what you mean by partners. I know what a friend is.

A Well, same term to me. It means the same term.

Q And do you visit with them now and then and go places and do things?

A Yes.

Q These various places that you applied for a job, did they tell you why they didn't hire you or wouldn't hire you or couldn't hire you?

A Well, most of the jobs I applied for didn't have any openings. We will call you. Don't call us.

[fol. 43] We will call you.

Q What is your draft status, sir?

A I am classified 2S.

Q What?

A 2S, Student deferment until October.

Q Of this year?

A Of this year.

Q And if you go back to school then are you deferred again?

A Probably so. I won't know until I send in the form.

Q Were you referred once to the Welfare Rehabilitation Service?

A No, sir.

Q For a job?

A No, sir.

Q You weren't?

A No.

Q Are you familiar with that organization, Welfare Rehabilitation Service?

A No, sir.

Q Was it suggested to you that you contact the Youth Commission for part time employment during the summer?

[fol. 44] A No, sir.

Q It was not?

A No, sir.

Q Did you take a college exam for Tuskegee?

A I took the ACT Test, American College Test and SAT Test which is a Scholastic Aptitude Test.

Q How did you come out?

A They don't send the grades to you, sir. They send them to the schools. The ACT Test went to Wilson.

Q Pardon?

A The SAT Test you never find out. The schools don't say anything. I guess you have to assume you are not accepted.

Q Do you get any general assistance?
A No more than what I told you on the survivor's.
MR. GOLDBERG: You are not familiar with the various technical categories of assistance, are you?
THE WITNESS: No, sir.

BY MR. GENIS:

Q Do you get any money from either the County of Cook or the State of Illinois?
A Well, I don't know, sir.
Q Well, this money that you do get, do you handle it or do you give it to your mother to handle it?
[fol. 45] A I give it to my mother to handle. It's in care of me for Loverta Alexander, care of me.
Q Was it suggested to you by anybody connected with the Cook County Department of Public Aid that you try for various scholarships?
A No, sir.
Q Weren't you at one time classified as 1A?
A As soon as I turned eighteen.
Q And what happened then?
A I sent a letter from the school. They have a form that you fill out stating that you are in school as a full time student. You send this into the military or to the draft board and you wait for them to return your answer and they should do so within two or three weeks but it took a month. I sent that in about the second week of September. I didn't get my draft form until the last week in October stating that I was 2S.
Q Was there an appointment made for you with the Welfare Rehabilitation Service both in October of 1968 and November of 1968 and you failed to keep both appointments?
A No, sir, there wasn't. I don't recall any such appointments.
Q In January of '69 weren't you referred to the Jane Addams House to attempt to seek a scholarship?
[fol. 46] A No, sir.
Q If the State of Illinois is able to find a job for you, will you quit school and go to work?
A No, sir.

Q If they are able to find a part time job for you, will you quit basketball and spend part time working?

A No, sir.

MR. GOLDBERG: Will you explain why?

MR. GENIS: Just a moment. After all, I am taking this.

THE WITNESS: Could I ask you a question, sir?

BY MR. GENIS:

Q Do you have a telephone at home?

A No, sir.

Q You do not?

A No.

Q Is there a phone in your apartment?

A No, sir.

Q You live at 6531 South Kimbark Avenue, correct?

A Correct.

Q Apartment 1C?

A Correct.

Q Does the telephone number 667-7797 mean anything [fol. 47] to you?

A Used to be my grandmother's phone number.

Q What?

A Used to be my grandmother's phone number.

Q In your apartment?

A Not in my apartment. In her apartment before she passed away.

Q Pardon?

A In her apartment before she passed away in September of '65.

Q In September of—

A 1965. It was her phone number. What happened to it after that, I wouldn't know, sir.

Q Where did she live at that time?

A On 60th and Wabash.

Q Did she live with you folks?

A No.

Q And what was her name?

A Ruby J. Mitchell.

MR. GENIS: Mr. Bilton, would you like to ask any questions?

MR. BILTON: Just a few.

[fol. 48] EXAMINATION BY MR. BILTON

Q Mr. Alexander, in your second semester you carried twelve hours, is that correct?

A Yes.

Q Were those four three-hour courses that you carried?

A Yes, sir.

Q Did you go to school five days a week?

A Yes, sir.

Q So you averaged less than three hours a day in school, is that right, as far as course time is concerned? I am not talking about basketball.

A Yes, as far as course time is concerned.

Q During that period of time during your second semester last year did you consider getting a part time job?

A Yes, sir, I tried even.

Q Where did you try to get a part time job?

A The Co-op send me a card stating they had an opening.

Q The grocery store?

A And it was an opening as a bag boy. You know, you bag all the groceries as they come out. And like you [fol. 49] have to take a manual dexterity test.

The part I couldn't understand is that I play basketball and it takes a lot of co-ordination but on this manual dexterity test where you put round blocks in different holes, I failed that according to her. My manual dexterity wasn't up to level.

I couldn't understand that but that is what happened there. And I applied through school where you have the student work study program and like it was closed. And they told me they—I kept on going and they kept telling me to come back and come back.

We have offices across the street that says job openings and I went over there. They wanted somebody twenty-one to drive for the CTA. That left me out there, too.

Q Well, you have some experience in library work, don't you?

A Yes, sir.

Q And you are also experienced somewhat as camp counselor?

A Yes, sir.

Q And as a basketball coach?

A Yes, sir.

Q You were trained in high school machine shop [fol. 50] work?

A Yes, sir.

Q Print shop work, is that right?

A You take that for a semester.

Q Now, during that semester—that second semester at Wilson when you were going to school, with course work less than three hours a day, did you try to get a part time job in any library in town?

A I did apply back at the main branch of the library.

Q And what happened there?

A Well, they called me in for an interview and like they said they might have openings tentative but like the boy that was not there came back to work so—

Q What about the library at Wilson?

A Well, the library at Wilson is on Work Study Program and it's a job so that they didn't have any openings there.

Q What about any libraries like the Crerar Library, the private libraries around there?

A I didn't try anything like that.

Q How about like—libraries like the Chicago Bar Association Library or the Chicago Law Library in the Civic Center, did you try to get a part time job in those [fol. 51] places?

A No.

Q Are you aware that those libraries did hire part time students?

A I wasn't aware.

Q Did you apply to the YMCA as either a counselor for the youth part time or as a weekend basketball coach in any way?

A No, sir, I didn't.

Q Have you tried to apply to the Park District as a basketball coach or youth counselor?

A No, sir.

Q Did you try to apply to any machine shop or print shop around town for part time work?

A As I told him, sir, when I tried it in high school we went through a lot of changes and some changes were due to the fact of the color of our skin. Not open out, you know, but under the table bit, you know, like that though—

Q Well, did you make any application during your second semester at Wilson for any machine shop here in town or print shop here in town?

A No, sir. Machine shop was my major but like it wasn't the major I wanted but like it was second best so [fol. 52] that is why I have it.

Q It would make you more money than being a packer in a grocery store, wouldn't it?

A Yes, sir, it would.

Q And have you made application during this past summer for any library work at all?

A The good old downtown Chicago Library.

Q Again they turned you down?

A Yes.

Q Any camp for the summer?

A Just that one week they might have an opening.

Q Other than that you were not interested in becoming a camp counselor?

A Maybe if I had tried it she might have an opening. Crocker is the lady's name, but—

Q But you didn't try?

A No, sir.

Q And you didn't try to be a basketball coach this summer at all any place?

A Like I am coaching the grammar school team. Some of the fellows I am just helping them out this summer.

Q During the summertime that job isn't open to you, is that right?

[fol. 53] A. No, sir.

Q During the summertime the Park District do have leagues for youngsters?

A They have leagues for youngsters but they are mostly sixteen through nineteen.

Q Every YMCA around town has basketball for youngsters where they need coaches?

A Well, I could be a coach for the boys my age between sixteen and through nineteen but they don't have a summer for little boys.

Q Don't they ever need summertime advisers for the little boys?

A In some areas.

Q Have you made application into any YMCA to get any of these jobs?

A Not to any Ys.

Q During the summers when you are not going to school, have you tried to get a job in any print shop around town?

A Well, see, I was telling you that like it was horticulture, auto shop and print shop that you take subsequently before you go into your major like this to help you decide.

[fol. 54] I tried it because I thought I might like them. Print shop is all right. It's nice. And like, you know, you read in the paper, you see articles we have an opening at Donnelly, R. R. Donnelly and Son and like you call that. I call a lot of numbers, you know, like that but like it wasn't no luck with them either. They usually wanted an older person.

Q Did you try to get summertime employment this summer at any print shop?

A No, sir. No further than—well, phone calls.

Q Well, is it true that if you were offered a part time job you would not accept that job if it interfered with your basketball, is that right?

A Well, I guess you could say that, sir, because like if I just get the right break and the right chance I would like to go into the pros. I think I am fairly good enough. It takes a few more years to be really good enough and it's hard to get into the pros unless you go from college and you make your name big but there is a chance, you know.

Q You are not carrying enough work load to maintain your 2S deferment?

MR. GOLDBERG: I object to that question. He is not the judge of that. It's his draft board and he is not qualified to answer that.

[fol. 55] MR. BILTON: He already gave an answer.

MR. GOLDBERG: He is not qualified to pass on what 2S requirements require.

BY MR. BILTON:

Q Are you acquainted with what 2S requirements require as far as the number of hours you have to take during the year?

A Thirty, I guess.

Q And you did not take thirty last year, is that correct?

A Correct.

Q And how many hours are you registered for this coming semester?

A I won't know until I go.

Q You have not as yet registered, is that right?

A No, sir. They send you a permit to register.

Q Are you planning to take more than fifteen hours?

A If possible.

MR. BILTON: I have no further questions.

MR. GENIS: I'd like to ask just one or two questions more.

[fol. 56] EXAMINATION CONTINUED

BY MR. GENIS

Q How tall are you?

A Six foot, three or four.

Q What?

A Six, three or four, one seventy-five to one eighty in weight.

Q You said that you didn't take the major that you wanted to take. What major did you want to take?

A Well, like I said, sir, when I first came to CVS I wanted to be a mechanical engineer and you would have to major in machine drafting.

Well, it's like they ask you in grammar school what would you like to do and you give them some kind of

information but like you are ignorant of the fact and when you get in college you have a counselor but like your counselor is usually tied up with program changes for different students and they don't have time to help you out. That is one of the reasons why I didn't finish from Chicago Vocational on time. I was a half a credit behind and like it was about three or four students that graduated without taking drafting at all. And that was an unfair thing to me.

[fol. 57] And you couldn't run down to the equal rights rights place and say well, now, they cheated me out of this so it wasn't no go. So I went to summer school and proved to myself I could major in drafting if I decided to.

Q Well, is it drafting that you wanted to major in?

A That is what it would have been, sir.

MR. GENIS: I have nothing else.

AND FURTHER DEPONENT SAITH NOT.

[fol. 58] [Reporter's Certificate to Foregoing Transcript Omitted in Printing]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68 C 2134

LOVERTA ALEXANDER, ET AL., PLAINTIFFS

vs.

HAROLD O. SWANK, ET AL., DEFENDANTS

The deposition of LOVERTA ALEXANDER, called by the Defendants for examination, pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before a Notary Public within and for the County of Cook and State of Illinois, on the 6th day of August, A. D. 1969, at the hour of 11:15 o'clock A. M., at 160 North La Salle Street, 9th Floor, Chicago, Illinois, pursuant to Notice and Agreement.
PRESENT:

MR. MELVIN B. GOLDBERG appeared on behalf of the Plaintiffs;

[fol. 2] HON. WILLIAM J. SCOTT, Attorney General, by MR. BERNARD GENIS, Assistant Attorney General appeared on behalf of the Defendant, Harold O. Swank;

HON. EDWARD V. HANRAHAN, State's Attorney, by MR. DEAN H. BILTON, Assistant State's Attorney, appeared on behalf of the Defendants, David Daniel and Mae Withers.

LOVERTA ALEXANDER,

having been first duly sworn, deposeth and saith as follows:

EXAMINATION BY MR. GENIS

Q Mrs. Alexander, will you please state your full name?

A Loverta Alexander.
Q Where do you live, Madam?
A 6531 South Kimbark Avenue.
Q Is that an apartment building?
A Yes, it is.
Q And do you occupy one of those apartments?
A Yes.
Q With who?
A My son.
[fol. 3] Q Jerome?
A Jerome.
Q And Jerome is your only child?
A He is my only son. I have two children. One daughter who is married and my son.
Q And what is the name of your married daughter?
A Ruby Willis.
Q Willis?
A W-i-l-l-i-s.
Q And what is the name of your other child?
A Jerome Alexander.
Q Just those two?
A That's right.
Q And where does—is Ruby Willis married?
A Yes.
Q And does she have any children?
A She has five children.
Q Where does she live?
A She lives on 54th Street.
Q How far is that from you?
A I live at 65th.
Q And she lives at 54th?
A That's right.
Q About a mile away?
[fol. 4] A Yes.
Q Did she ever live near you?
A Oh, years ago. Near me, yes. She lived on 67th Place years ago.
Q And does she render any aid—
A No.
Q —to you or your son?
A No.

Q Do you render any aid to her or her children?
A No.
Q What does her husband do?
A They are separated right now.
Q Who supports Ruby Willis?
A ADC.
Q Now, what income do you get, Mrs. Alexander?
A I get a General Assistance and my son gets—he gets disability from—
Q How much General Assistance do you get?
A I guess $111.00.
Q Per month?
A Per month.
Q And how much disability does he get?
A He gets forty-six, sixty right now.
Q Per month?
[fol. 5] A Per month.
Q What else do you folks get, if anything?
A Don't get any. What we beg. We don't get any.
Q This forty-six, sixty, does that come to you for him or does that come to him directly?
A It comes to me for him because he is under twenty-one. It says Jerome—to Jerome Alexander—it comes to me for Jerome Alexander. That is the way it says.
Q Are you the one that takes care of the family finances?
A Yes.
Q Why does he get this disability?
A Well, he gets it from his father, his disabled father.
Q What is his father's name?
A John H. Alexander.
Q And where does he live?
A I don't know right at the present. Last time I heard he was in Georgia but that is hearsay. That is gossip, neighborhood talk.
Q Do you or he get anything else from the father?
A No.
Q How old a lady are you?
[fol. 6] A I am fifty-eight.
Q And when were you born?
A I was born July 17, 1911.

Q Do you have any sisters or brothers?
A Yes, I have a sister and a brother.
Q Where does your sister—what is your sister's name?
A Christine Garnes, G-a-r-n-e-s.
Q Where does she live?
A She lives 7504 Cornell.
Q Here in Chicago?
A In Chicago.
Q Is she married?
A Yes.
Q Is she on ADC, too?
A No, she is not.
Q Does her husband work?
A Yes.
Q Do they ever give you any kind of help of any kind?
A No.
Q Have they ever?
A No.
Q How about your brother, what is his name?
[fol. 7] A Leo Jones.
Q Where deos he live?
A 2901 West Washington Boulevard, Chicago, Illinois.
Q What does he do?
A He works at the post office.
Q Is he married?
A He has a family, a wife and two boys.
Q Does he render any aid to you of any kind?
A No, I seldom see him.
Q Or to your son?
A No.
Q Who is your landlord?
A Civil Wood Real Estate (phonetic spelling.)
Q And how much rent do you pay?
A Eighty-seven, fifty.
Q Per month?
A Per month.
Q And how big an apartment do you have?
A Two and one half rooms.

Q Does that include utilities?
A That's right.
Q Do you have a written lease?
A Yes.
[fol. 8] Q And is the lease in your name?
A My brother signed it before he died so I don't know how it's going to be from now on.
Q Which brother is this now?
A That was my baby brother, Thomas Jones.
Q Who paid the rent?
A I paid it. He just signed the lease because they wouldn't let a woman sign. You know how you all do things. I was working when I started living there but they wouldn't let me sign a lease because I am a woman.
Q And when does your lease expire?
A It expires the first—the 30th of—the 30th of September.
Q The what?
A The 30th day of September, 1969.
Q And when did you move in here?
A I moved in the 30th day of—let me see—I moved in the 30th day of—the first day of October, 1961.
Q 1961?
A That's right.
Q You say you were working at that time?
A That's right.
Q What kind of work were you doing?
[fol. 9] A Nurse's Aid.
Q And how long did you continue doing that?
A Until they closed the nursing homes down.
Q When was that?
A That was in '63, August of '63 if I am not mistaken.
Q Did you apply for any type of work after that?
A Yes, I did.
Q What kind of work?
A Nurse's Aid because that is all I have done all my life.
Q And where did you apply?
A I applied at different places at different homes, nursing homes.

Q Well, will you name those for us?

A Monterey. That is where I once worked. When they reopened that I applied for a job there.

They told me I was—they didn't have anything for my age over forty.

The Illinois Employment office said the same thing several times. I went to different clerks there and they said the same thing, nothing over the age of forty.

Q Which office did you apply at?

[fol. 10] A Illinois Employment Agency down here on Dearborn.

Q On Dearborn Street?

A That's right.

Q And when was the last time you applied?

A Well, the last time I applied was last summer.

Q You take care of your two and one-half room apartment?

A Well, with the help of my son. Sometimes I am not able to do anything because I have arthritis so bad I can't—sometime I can't raise my hand to comb my hair. And I can't bend my hand to wash dishes.

Q Can you bend your hand now?

A Yes, right now because I have it in my knees now. I have the traveling kind.

Q Are you able to take care of yourself at the present time?

A Not financially.

Q No, no, I am talking about physically.

A Well, yes. It's just at times. I go along with it.

Q You what?

A I go along with my ailments.

Q But you are able to take care of the house, are you?

[fol. 11] A Yes. All that don't get done, I do without it. It's not done.

Q Do you do cooking?

A I do most of the cooking. I do the cooking.

Q Do you do your shopping?

A My son do all my heavy lifting. I can't do much of that.

Q I understand, but you do the shopping and he carries it?

A Yes, I do the managing.

Q Who was Ruby Mitchell again?

A That was my mother.

Q Did she ever live with you?

A No.

Q Didn't you have a phone at your home at one time?

A Years ago I had my own phone when I was working. Mi 3-6064 was my number at that time.

Q And when did your mother pass away?

A In '65.

Q Do you have a bank account?

A No.

Q Do you have any insurance?

A No.

[fol. 12] Q Would you go to work if the State of Illinois could find you a job?

A If I am able to work, if I am able to do the work.

Q Well, if your employer was satisfied with your ability to do the work, would you go to work?

A Yes, I'd go to work.

Q Any type of work?

A Well, I don't know—I don't say any type because I can't do any type. I have never done nothing but nurse's aid all my life.

Q Well, you were employed as a seamstress once, weren't you?

A No. I tried out for a job but you can't pick up a person out there on the street and they don't know how the machine run and put them in one of these factories to work. ADC tried that on me and I hadn't had any experience.

Q Well, so—

A The first time I seen the power machine I looked over there and saw how she worked hers and I tried to work mine. How could I hold a job like that?

Q Did you leave voluntarily or did they let you go?

A No, they let me go because one place told me they [fol. 13] don't teach them on the job.

Q You were offered a job as a babysitter, weren't you?

A A babysitter?

Q Yes.

A No. I ain't got the patience with kids now.

Q Would you work as a babysitter?

A No.

Q Didn't you receive a vocational allowance at one time so that you could study something so that you could be employed?

A No. They sent me over here to Washington. I went over there but they didn't pay me for that and I wasn't studying nothing no way.

Q Pardon?

A That wasn't studying anything anyway.

Q Do you approve of your boy's basketball activities?

A I certainly do. That is his heart. That is his mind. Why not let him train for it. That is what I want to do.

Q Why do you feel that your son isn't getting better grades?

A Well, hunger is part of it.

[fol. 14] Q Pardon?

A Hungry. He don't have the proper food. The man was telling me eat fruit sometime and I never could have fruit juices and stuff like that for him. I didn't have the proper food all the time for him for this basketball. He lost weight. The coach sent me word he lost weight.

Q The who?

A Coach. I did the best I could with what I had.

Q Did you ever sit for your daughter's children, babysit for your daughter's children?

A No, I never babysit for her because when you babysit they pay you. But they come over there and I have help them for her but not to babysit for them.

Q Do you also feed them?

A If I had anything I would give it to them.

Q Well,—

A I wouldn't let them stay there hungry.

Q Do you ever have anything to give them?

A I have leftover beans or peas, whatever I had. I divided it.

Q Do you stay home all day?

A I certainly do. The only time I go out is when it's necessary. I go to the clinic or go to the store, something like that, if I can go, and if I don't go I send my [fol. 15] son. Sometime I can't walk.

Q When you say go to the store you mean grocery shopping, things like that?

A Grocery store, send out and get something, some milk or something.

Q Didn't Mrs. Willis live across the hall from you at one time?

A No. No, she has never lived in my building.

Q Didn't she live across the hall from you in 1968?

A No, she didn't.

Q Was your son ever advised to contact the Illinois Youth Commission for part time employment?

A Not that I know of.

Q Do you know whether or not your son was ever advised to try to scholarships?

A No.

Q You don't know or he was not advised?

A By who, Mister?

Q By anybody.

MR. GOLDBERG: If you don't know, just say you don't.

A I better say I don't know because I don't remember.

[fol. 16] BY MR. GENIS:

Q Does Jerome turn over to you all the money he makes on these odd jobs?

A No, he doesn't. He have to have something to spend for himself sometime. That is how he made the money for spending.

Q Do you give him any money?

A I don't have enough to give him, Mister.

Q How about this money that he gets because of his father's disability?

A I have to take that and pay part of the rent.

Q Do you give any of that money to him?

A Well, I might give him change, fifty cents or some-

thing like that but I never have nothing—no money to give. That is change.

I paid eighty-seven, fifty rent out of $111.00 and the rest I have to have it for food or carfare or some other little things.

What I mean by other things, like washing powder or soap powder or soap to take a bath or broom or something like that because they don't furnish that and I can't get that.

Q This general assistance that you get, doesn't that include also for your son?

[fol. 17] A Well, it might do the way they figure but he is not supposed to be on the budget.

Q Pardon?

A He is not on the budget. That is what we are fighting for now to get him on the budget.

Q Isn't part of the General Assistance that you receive for him?

A Some of the food I eat, some of the food there, that's all.

MR. GOLDBERG: Wait a minute.

BY MR. GENIS:

Q $28.27 is food for your son?

MR. GOLDBERG: Were you ever given a breakdown of your General Assistance budget so that you know what that $111.00 is?

THE WITNESS: No, I haven't. When I asked the worker when she came out to the house, when I asked her, she said I don't have my books with me now.

BY MR. GENIS:

Q Who is Mrs. Loverta Jones?

A That was my maiden name. Jones was my maiden name.

Q Do you have a telephone?

A No, I haven't.

[fol. 18] Q Have you ever had housekeeping services?

A Have I ever had it?

Q Yes.

A What you mean? Had it now? Somebody to render the service to me?

Q Yes.

A No, never in my life have I been that successful.

MR. GENIS: I have nothing further.

MR. BILTON: Nothing.

MR. GOLDBERG: I'd like to ask just a couple questions perhaps as long as we have the court reporter here and we can clarify this.

MR. GENIS: I think this is our deposition.

MR. GOLDBERG: All right.

MR. GENIS: That is all. Thank you.

Do they both waive signatures to this deposition?

MR. GOLDBERG: Will I get to see a copy of this?

MR. GENIS: We can show you a copy.

MR. GOLDBERG: With the understanding that I will see a copy of the transcript before it is submitted to the Court both parties will waive signature.

AND FURTHER DEPONENT SAITH NOT.

[fol. 19] [Reporters' Certificate to Foregoing Transcript Omitted in Printing]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68C 2134

LOVERTA ALEXANDER, et al, PLAINTIFFS,

vs.

HAROLD O. SWANK, Director of the Illinois Department of Public Aid, et al, DEFENDANTS

The deposition of GEORGIA TOWNSEND, called by the Defendant for examination, pursuant to notice and pursuant to the Rules of Civil Procedure for the United States District Court pertaining to the taking of depositions for the purpose of discovery, taken before ROSE MARY SLOWIK, a notary public within and for the County of Cook and State of Illinois, at 160 North La Salle Street, Room 900, Chicago, Illinois, on the 10th day of September, A.D., 1969.

[fol. 1(a)] PRESENT:

MR. MICHAEL LEFKOW,

on behalf of the Plaintiff,
Georgia Townsend;

MR. WILLIAM J. SCOTT, Attorney General, by MR. BERNARD GENIS, Assistant Attorney General,

on behalf of the Defendant,
Harold O. Swank, Director of the Illinois Department of Public Aid;

MR. EDWARD V. HANRAHAN, State's Attorney, by.

MR. DEAN BILTON, Assistant State's Attorney,

on behalf of the Defendant,
Cook County Department of Public Aid.

[fol. 2] MR. GENIS: This is the deposition of Georgia Townsend taken pursuant to notice that I served, as well

as an order that was entered by the Court requiring you to come here and to truthfully answer all questions that I may ask of you pertaining to this case.

GEORGIA TOWNSEND,

having been first duly sworn on oath, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. GENIS:

Q Mrs. Townsend, will you please state your name for the record?

A Georgia Townsend.

Q And you live with your daughter, I take it in the same place?

A Yes.

Q Do you mind telling me how old a lady you are?

A I am forty years old.

Q How long have you been receiving Public Assistance or Public Aid, whatever it might be called, when you first started receiving it?

A I believe, maybe about five or six years.

[fol. 3] Q Five or six years? From now about 1964 or '65?

A Something like that, I believe.

Q Well, I maybe wrong, and if I am you correct me, I thought the report shows that you started receiving aid in 1962?

A Well, it could be, I don't know.

Q And if you did start receiving aid in 1962—

A I don't think it was '62, it might have been. It wasn't any earlier than that.

Q Have you been receiving it ever since?

A Yes.

Q Was there any time that you did not receive any aid whenever it started, whether it was '62 or later?

A No.

Q And when you started receiving Public Aid was that what is commonly called A.D.C.?

A Yes.

Q And, it is A.D.C. at the present time?
A No.
Q A change took place?
A Yes.
Q And approximately when did that change take place?
[fol. 4] A Shortly after I became a recipient.
Q And did you go on what is commonly called Disability Assistance?
A Correct.
Q And do you recall approximately when that was?
A Well, I could only say shortly after I started receiving it.
Q And, by the way, are you a married lady?
A I was.
Q Do you remember when you were married?
A No, I don't.
Q Well, are you still a married lady?
A No.
Q Are you separated or divorced?
A Separated.
Q Are you divorced?
A I don't know.
Q What was your husband's name?
A R.C.
Q Townsend?
A Yes.
Q And, do you know where Mr. Townsend is?
A No, I have no idea.
[fol. 5] Q Do you remember how long you and Mr. Townsend lived together as husband and wife?
A Approximately, maybe a year, I really, I don't know.
Q And what is the nature of your illnes?
A Oh, I don't know. Really, I can't give you the name of it, but it leaves me where I can't do anything. I have terrible joint pains and something is wrong with both of my pelvics. I don't do anything for myself. I have vomitting spells, stomach trouble, my head bothers me.
Q Have you been under the care of doctors?
A Yes, I have.

Q Do you remember when it started?
A It has been at least ten years, I believe.
Q Did you ever work?
A No.
Q Well, let's go back before the ten years, did you ever work before you became ill?
A Maybe just a little, not really.
Q And what kind of work did you do, then?
A I sewed.
Q Sewed, do any other type of work?
A No.
[fol. 6] Q Who are the doctors that have been taking care of you recently, if there have been any?
A Dr. Smith, Dr. Baradi.
Q Spell the last name?
A I suppose you can do it as well, B-a-r-a-d-i.

OMEGA MINOR: B-h-o-r-a-d-a, or something like that.

GENIS:

Q Any other doctors?
A Besides those two?

OMEGA MINOR: Fataca, F-a-t-a-c-a.

MR. GENIS:

Q Where are those doctors?
A County.
Q Cook County Hospital?
A Yes.
Q How long have these three doctors been taking care of you?
A Well, Fataca, maybe about three years, Dr. Bhorada, you know they change.
Q And were there other doctors at Cook County that took care of you before?
A Yes.
Q And how long have you been going to the doctors at Cook County?

[fol. 7] A Ever since I became ill.

Q When was that?

A About ten years ago I have been ill, maybe a little more.

Q Well, have you during the ten years or more that you have been ill, have you been either on A.D.C. or Disability Assistance during those ten years?

A Yes.

Q And, of course, Cook County pays this expense?

A The hospital.

Q The doctors?

A Yes.

Q Have you ever been a patient at—

A No.

Q —at Cook County Hospital?

A Oh, yes.

Q Do you remember when?

A From the time I first took ill up until—

MR. LEFKOW: Maybe you ought to clarify if she was a bed patient.

MR. GENIS:

Q Have you ever gone to Cook County and stayed in bed?

[fol. 8] A Yes, certainly.

Q What I have in mind, do you remember when the first one was?

A Well, I was the first time, when I first got ill.

Q About ten years ago?

A Yes.

Q And how long were you in?

A Once I was there, I know once I was there for over six months, and one time confined.

MR. LEFKOW: His question was this first time?

THE WITNESS: Maybe a month or two, I really don't know. I have always been in and out.

MR. GENIS:

Q How many times were you what they call an in-patient where you stayed in bed for several days at Cook County Hospital?

A You will have to get the records, so many times I can't count them. It would be impossible for me to count them.

Q When was the last time you were a patient at Cook County Hospital.?

A In April.

Q Of this year?

[fol. 9] A Yes.

Q And how long were you there at that time?

A I think, seven days.

Q And the time before?

A I think, I went in January.

Q Of this year?

A Yes.

Q Do you remember how long you were there at that time?

A It was, yes, it was longer, but I don't remember exactly how long.

Q And, then in 1968, were you also in Cook County Hospital, that is last year, if you remember?

A Yes; I was.

Q How often do you go to Cook County Hospital—these doctors, did you go to see them at Cook County, or would they come out to your home?

A I go to see them.

Q Do you still go out to see them?

A Yes.

Q And how often do you go out to see them?

A As often as they require me to come.

Q And approximately how often is that?

A Well, sometimes once a month, sometimes every [fol. 10] two months. It is according to how they think I am doing.

Q And are they treating you for whatever your ailment is?

A Yes, as best as they can.

Q Right. And how do you get to the hospital?

A Cab.

Q And do you get home by cab, too?

A Yes.

Q And that is taken care of by Cook County?

A Yes.

Q They pay for that?
A Right.
Q And do you require certain medicines?
A Yes.
Q Is that paid for by Cook County Public Aid, also?
A Yes.
Q And your hospital bills were also taken care of by Cook County Public Aid?
A Yes.
Q When you are at home, are you able, or do you do any walking around?
A Sometimes.
[fol. 11] Q And do you also at other times sit up?
A Yes.
Q Are you ever confined entirely to your bed except when you sleep at night?
A Yes.
Q There are times you do that, too?
A Yes, that is correct.
Q And what are you able to do for yourself?
A I can feed myself if I am not too ill.
Q Yes.
A Oh, at times I can wash myself up.
Q Yes.
A And that is just about, maybe, I can, I mean after my daughter helps me dress, I can zip it up or button. Zippers are easier for me.
Q Did you at one time request nursing or housekeeping care for you at your home?
A Yes.
Q Do you remember when that was?
A No, but it's been over a couple of years, I think.
Q Did you get it?
A Yes.
Q A woman was sent in to take care of the house [fol. 12] for you?
A Yes.
Q Do you remember when that was?
A I said, maybe a couple of years ago.
Q And Cook County Department of Public Aid paid for that?

A Yes.
Q And how long did that last?
A Maybe a couple of months, something like that, if that long.
Q And she was in everyday to take care of you?
A No.
Q How often did she come around?
A Monday and Wednesday. I don't remember if she came Friday.
Q And did she clean the house?
A If you want to call it that.
Q What did she do?
A She messed up.
Q What was she suppose to do?
A She was suppose to take care of me and clean, cook.
Q Were you satisfied with her?
[fol. 13] A No.
Q Did you decide that you didn't want her anymore?
A No.
Q Who decided?
A The caseworkers or whoever he was, her supervisor.
Q Did you make a request for more housekeeping?
A Yes.
Q Did you get it?
A No.
Q Do you know why?
A No.
Q When you are at home, do you have a wheelchair by the way?
A Yes.
Q And how long have you had a wheelchair?
A For several years.
Q And where did you get it?
A Same concern.
Q Cook County Department of Public Aid?
A Yes.
Q Do you use your wheelchair, now?
A Yes.
Q How did you get here?

[fol. 14] A They brought me.
Q Who is "they"?
A My daughter and Mr. Lefkow.
Q How?
A In his car.
Q And, from the car did you walk to this building?
A Yes, they assisted me.
Q Where was the car parked, how far away?
A In front of the building.
Q And they assisted you into the building?
A Yes.
Q And you came up an elevator?
A Yes.
Q And with their assistance you walked into the office?
A And sat down.
Q Is your ailment getting any better, or any worse?
A It is not. It is not getting any better.
Q It is not?
A No.
Q Was there one time when you were confined to your bed?
A That is right.
[fol. 15] Q Are you still confined to your bed?
A No. Well, how could you say in some instances. I used to suffer quite often with my stomach, and in other words, my illness, like I am up today, I could be in bed tomorrow. It reacts like that.
Q Well, one time you were in bed regularly, weren't you?
A Yes.
Q Were you what they call bedfast?
A Right.
Q You are not bedfast continually, now?
A No, not all the time.
Q And for a while you were confined to your wheelchair all the time, wasn't this?
A Just about.
Q You are not confined all the time to your wheelchair, now, are you?
A No.

Q Do you do it at all, now?
A Yes, sure, I have to.
Q Are you interested in having a housekeeper come along to take care of your home, now, so your daughter can go to work?
A Not, like I have been—
[fol. 16] Q You are not interested in having a housekeeper?
A Not the kind like that sent me.
Q No housekeeper ever takes care of a home as well as the housewife or homemaker.
MR. LEFKOW: I would object. Mr. Genis, I can't see that has any relevance to the case.

MR. GENIS:

Q If the Cook County Department of Public Aid supplies you with a housekeeper, will you permit your daughter to go to work?
A I have permitted her already, but it is too much for her to work.
Q Would you answer my question? If the Cook County Department of—
MR. LEFKOW: I think she answered.

MR. GENIS:

Q If Cook County Department of Public Aid will supply you with a housekeeper, will you permit your daughter to work?
A I have already permitted my daughter to work, but due to the circumstances she can't.
Q If there is somebody to take care of you, then, the circumstances will end, won't it?
A I don't know.
[fol. 17] Q Do you want your daughter to go to work?
A I don't mind.
Q Well, do you want her to work?
MR. LEFKOW: Well, Counsel, I will object to this. Mr. Genis, that is not relevant to the case. This is not something of relevancy to the issues involved in the case. Whether she wants her daughter to go to work has nothing to do with eligibility or for her A.F.D.C.

MR. GENIS: That is where you and I differ, Mr. Lefkow.

MR. GENIS:

Q Did the doctors tell you that they expected that you would be eighty percent mobile to expect that eventually you would be able to walk eight percent as well as a normal person would?

A No.

Q How long does it take to clean your four-room house?

A I really couldn't say because I haven't never timed anyone.

Q Well, what is your best estimate of how long it would take if you were well to take care of your four-room apartment?

A It may take a good day's work according to what [fol. 18] else, if the person just is going to clean up, and not cook, that is one thing, and if they are going to clean up and cook and do two or three other things, that is something different, too.

Q Well, do you think that if you are going to cook and clean your apartment, that it takes all day, seven days a week to do it?

A It wouldn't take me seven days. I don't know about anyone else.

Q How long would you take?

A When I was able, it didn't take me seven days.

Q How long did it take?

A I don't remember.

Q Did you ever have occasion to go to the District Office of the Cook County Department of Public Aid?

A No.

Q What does your daughter do home all day?

A She takes care of me, she cooks, she washes, she irons, and she cleans, she goes to the store, she studies her homework, she does everything that is in the house, everything. I don't go to the store to do any shopping. I can't even carry a chicken home if somebody gave [fol. 19] it to me—and I do mean everything.

Q Well, if your daughter eventually graduates, and I am sure she will, she says she will.—

A She will.

Q From DuSable and then has to go full time to Chicago State College, who is going to take care of you, then?

A I don't know.

Q Isn't it a fact that the housekeeper was at your home while you had her five days a week?

A I might have years ago, the last one I didn't.

Q How many times did you have a housekeeper sent to you or paid for by the Cook County Public Aid?

A I think, three times.

Q Were you satisfied with any of them?

A Not really, and I am not hard to get along with.

Q Do you have any kind of companionship at home outside of your daughter?

A No.

Q Have any friends that come around to keep you company?

A Some associates ever once and a while.

Q What do you mean by "associates"?

[fol. 20] A Because this is different from a friend and associate.

Q You mean they are acquaintances?

A Acquaintances.

Q Do you have many acquaintances that come around and see you?

A No.

Q Do you feel that the companionship of your daughter at home, that is what you need?

A I mean we get along fine, if that is what you mean. I am not craving for any other.

Q When your daughter is away to school are you lonesome for her?

A Sure, I am lonesome.

Q Do you like to have her home all the time except when she goes to school?

A Well, naturally.

Q You would rather that she keep you company than work?

A No, not really.

Q Did you ever discuss with your daughter to have her see if she couldn't obtain some sort of scholarship?

A I though it was too late. I think, we have talked [fol. 21] about it.

Q How do you account for the fact that your daughter did so well in high school, and is doing comparatively very poorly in college?

A Because when she entered college she still had a lot to do, the studies were harder, she still had me to take care of. It was an awful adjustment for her to make. It is an awful lot for her to take care of me.

Q Well, didn't she have to take care of you during the four years she was going to high school?

A Yes, but high school and college is different.

Q Did she take care of you all the time, during the time she was going to high school?

A Most of the time, yes, that is during the time I had a housekeeper once in a while.

Q How about when she was going to grammar school, were you ill?

A I was in the hospital, that is true.

Q And how did she do in grammar school?

A You mean her studies?

Q Yes.

A She did all right, that was easy, also in high school.

[fol. 22] Q Do you think college work is too much for her?

A No, I don't, but I think, it requires, in fact, I know it requires more time and studying.

Q Didn't the Cook County Department of Public Aid suggest that your daughter seek part-time employment?

A I don't know.

Q You don't know?

A They did say something to that effect.

Q Does your daughter have any friends that come to the home?

A She has some associates.

Q How often?

A I don't really, I don't know exactly how often, not two, or three, or four times a week.

Q How often would you say?

A I would say not two, three, or four times a week. Now, I don't know exactly. I don't write that down.

Q Do you get any aid of any kind except what you get from the Cook County Department of Public Aid?

A No.

Q Do you have a bank account?

[fol. 23] MR. LEFKOW: Just answer the question.

THE WITNESS: No.

MR. GENIS:

Q Have any insurance?

A I don't have anything.

Q Do you get any help from any relatives?

A No.

Q Friends?

A No.

Q Charities?

A No.

Q What do you and your daughter do at home when she is not studying or taking care of the house?

A Go to sleep. Sometimes, she takes me for a walk if I am able, and I go out in my chair.

Q Does she have any girlfriends?

A Yes.

Q Do they come around once in a while?

A It's been a long time.

Q Does she have any boyfriends?

A No.

Q Does she know any boys?

A Yes, of course.

Q Do they ever come around the house?

[fol. 24] A Sometimes.

MR. LEFKOW: Mr. Genis, I have to object to that line of questioning because it really bears no relevance to the case except for those things that are relevant, my clients don't care to lay out their lives on the table. Please confine it. Questions of whether she has boyfriends is not relevant if she stated she has no income.

MR. GENIS:

Q The question was what she does with her time?
A She doesn't have any time.

MR. GENIS: There is nothing wrong in having friends, at least I have never considered it wrong. Mrs. Townsend, do you consider it wrong to have friends?

MR. LEFKOW: What I am saying except for those questions you may have that relate to the case, other matters such as some of the others you mentioned are an invasion of privacy which is a right, and all I am saying as their attorney, I wish you would ask questions in such a manner as to respect those rights, that is all I am asking.

MR. GENIS:

Q Your daughter did make—did get a loan for some of her school books, didn't she?
[fol. 25] A Yes.
Q How long has your T.V. been on the blink?
A Since March the 5th, 1966, I believe, it was '66, I don't really remember. Whenever March 5th was on a Sunday, that is when it was.
Q Do you recall the Cook County Department of Public Aid making several appointments for your daughter to come and see them so that they could help her get part-time employment?
A No.
Q If the Cook County Department of Public Aid did supply you at home with housekeeping and nursing care, would your daughter then have time to do part-time employment—work?
A I don't know. It is according to how she has to study. I don't know that.
Q You mean even though she didn't have to do any housekeeping work or nursing work of any kind for you, she would still need all that time to study?
A I don't know how much time she would need to study. You have to ask her.
Q When you go to the hospital in a cab do you go alone?
A Most of the time, sometimes.

[fol. 26] Q Sometimes what?
A I go alone.
Q And sometimes you don't?
A Right.
Q And who goes with you?
A My daughter.
MR. GENIS: Do you have any questions, sir?
MR. BILTON: No questions.

MR. GENIS:

Q You have no income except the grant?
A Yes.
Q How much do you get a month?
A $120.68.
Q A month?
A Yes.
Q $120.68 a month, you get that a month?
A Yes.
Q You get it all at once?
A Yes, all at once.
Q Once a month?
A Yes.
MR. GENIS: I have nothing else.

* * * *

[fol. 27] [Reporter's Certificate to Foregoing Transcript Omitted in Printing]

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

No. 68C 2134

LOVERTA ALEXANDER, ET AL., PLAINTIFFS

vs.

HAROLD O. SWANK, Director of the Illinois Department of Public Aid, ET AL., DEFENDANTS

The deposition of OMEGA MINOR, called by the Defendant for examination, pursuant to notice and pursuant to the Rules of Civil Procedure for the United States District Court pertaining to the taking of depositions for the purpose of discovery, taken before ROSE MARY SLOWIK, a notary public within and for the County of Cook and State of Illinois, at 160 North La Salle Street, Room 900, Chicago, Illinois, on the 10th day of September, A.D., 1969.

[fol. 1(a)] PRESENT:

MR. MICHAEL LEFKOW, on behalf of the Plaintiff, Omega Minor;

MR. WILLIAM J. SCOTT, Attorney General, by

MR. BERNARD GENIS, Assistant Attorney General, on behalf of the Defendant, Harold O. Swank, Director of the Illinois Department of Public Aid;

MR. EDWARD V. HANRAHAN, State's Attorney, by

MR. DEAN BILTON, Assistant State's Attorney, on behalf of the Defendant, Cook County Department of Public Aid.

[fol. 2] MR. GENIS: This is the deposition of Omega Minor taken pursuant to notice that I served, as well as an order that was entered by the Court requiring you to come here and to truthfully answer all questions that I may ask of you pertaining to this case.

Do you understand, Miss Minor?
MISS MINOR: Yes.

OMEGA MINOR,

having been first duly sworn on oath, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. GENIS:

Q Miss Minor, for the record, will you please state your name, and will you speak up so we all hear you?
A Omega Minor.
Q Where do you live, Miss Minor?
A 3983 Lake Park.
Q In Chicago?
A Yes.
Q Is that an apartment building?
A Yes, it is a project.
Q And, in what apartment do you live?
[fol. 3] A 108.
Q And do you have a telephone?
A Yes.
Q What is your telephone number?
A 624-0593.
Q And how large an apartment is it?
A A two-bedroom unit.
Q How many rooms altogether?
A Four.
Q And what does the apartment consist of?
A Two bedrooms, one kitchen, one bath, and one living room.
Q And do you live there with your mother?
A Yes, I do.
Q Does anyone else live there?
A No one else.
Q How long have you lived there?
A For about a year and two months.
Q And where did you live before that?
A We lived on 51st and Calumet.
Q And what address?

A 5111 Calumet, 10, in Chicago.
Q And how long did you live there?
A About four years, I suppose.
Q And how big an apartment was that?
[fol. 4] A Same amount of space, four rooms.
Q And did you have a phone number there?
A Yes, but I don't remember what it was.
Q And did you live there with your mother?
A Yes, no one else.
Q No one else. And do you know how much rent you pay where you are now?
A Yes, $70.00 a month plus utilities.
Q That includes utilities?
A No, It doesn't.
Q Now, do you have a Social Security Number?
A Yes.
Q Do you know what it is?
A No, I don't.
Q Do you have it with you?
A No, I don't.
Q Do you remember when you graduated from grammar school, do you remember?
A Yes, I do remember.
Q And when did you graduate from grammar school?
A It was in January of 1963.
Q And what is the name of the grammar school?
A Crispus Attucks.
Q And after you graduated from grammar school, [fol. 5] did you go to high school?
A Yes, I did, DuSable.
Q And when did you start DuSable?
A Let's see, I believe, it was that January, I am not too sure.
Q Well, I suppose the semester was started around February 1st?
A Something like that.
Q Of 1963?
A Yes.
Q And did you go to DuSable continuously?
A Yes, I did.

Q Until you finished?
A That is right.
Q And when did you graduate from DuSable?
A In August 1966.
Q Now, when you went to DuSable High School, did you major in any particular type of work?
A No, I didn't.
Q Did you take secretarial work there?
A Some of it, yes.
Q And what type of work did you take as far as secretarial work was concerned?
A Typing and shorthand and it is business education.
[fol. 6] Q And how long did you take shorthand?
A Well, about a year, I suppose.
Q And how long did you take typing?
A For the same amount of time.
Q And what is the third subject you mentioned?
A It was a business course, I think, it was business, I can't remember.
Q How long did you take that?
A I took the full course for a year.
Q And, did you learn how to type?
A Yes.
Q And did you learn how to take shorthand?
A Yes, I did.
Q Do you still know how to type?
A Yes, I do, but I don't know how to take shorthand.
Q Outside of your regular school work, did you participate in any other activity in high school?
A No, I didn't.
Q Weren't you editor of your school paper?
A Yes, I thought you meant other outside activities in—
Q I mean in school, outside of the classroom?
A No.
[fol. 7] Q You were the editor of your school paper?
A Yes.
Q And before you were editor, you did other things on the school paper?

A Yes, other things like writing something.
Q And how long did you work on the school paper?
A I can't tell you because I don't know.
Q How long were you editor of your school paper?
A About a term or two, I am not too sure.
Q Did you participate in sports?
A No.
Q Were you interested in sports?
A No.
Q How would you say you were as far as a student, poor, good, average, very good?
A I was good and average, sometimes very good in certain subjects.
Q Do you know what your rank was in DuSable when you graduated?
A It was in the top portion.
Q In the top?
A Top portion, I was the valedictorian.
Q In the top portion?
[fol. 8] A That is right.
Q Upper five percent, ten percent, twenty percent, fifty?
A The upper five percent.
Q Did you get some honors?
A I was valedictorian like I said.
Q I am sorry, I didn't hear you.
What does the valedictorian of the class do?
A Well, I gave the graduation speech, the last speech or whatever.
Q I understand, but, do you have to be number one, two, or three in your class to do that?
A That is what I was told.
Q What did you have to do?
A As far as my grades and my attendance was excellent. That is, I suppose, how I got it, they didn't tell me all of that.
Q Did you participate in any other activities in school outside of being on the school newspaper?
A Like what?
Q I don't know.

A No, I told you, no other activities, just the school newspaper and just my school work. That is all, noth-
[fol. 9] ing else.

Q Now, while you were attending DuSable, did you plan on going further in school?

A Yes, I did.

Q And did you discuss that with anyone at DuSable?

A Some of the counselors.

Q And were you advised to look into the possibility of getting a scholarship?

A No, I wasn't.

Q Weren't you advised at DuSable to check into the possibility of trying to get some scholarship?

A At the time I was too late, I mean, they advised, but, it was too late for that, so it was, but I was too late.

Q Did they advise you?

A Yes.

Q And who advised you?

A I don't remember.

Q And how many times were you advised?

A I don't remember that either.

Q Was it more than once?

A I don't know.

Q Did you make any attempt at that time to get a
[fol. 10] scholarship for college or junior college?

A I believe, I did, but I can't say for sure.

Q Did you take any tests for a scholarship?

A I had the ACT, I don't think I took the scholarship test.

Q How did you do on the ACD?

A ACT, I did fine, but I don't remember the scores.

Q Were you advised at that time by the Cook County Department of Public Aid to try to obtain a scholarship?

A I don't think so.

Q Weren't you requested to come down to the District Office to discuss the possibility of getting a scholarship for either junior college or college?

A I don't think so.

Q Did you go down to the District Office to discuss the possibility of trying for a scholarship?

A If I don't think I was not advised, I am sure I don't remember going down there.

Q All right. When did you graduate from DuSable?

A DuSable, I graduated in August of '66, like I told you before.

Q All right. What did you do that summer?

[fol. 11] A I went to school in September. I didn't do anything because summer was just about over.

Q You went to summer school?

A When I graduated in August the summer was just about—August, and I went to school in September. I was in school during the summertime.

Q By the way, the regular graduation is usually around the first of June?

A That is right, June.

Q But, you went to summer school and graduated from summer school?

A That is right.

Q Now, where did you go, then?

A To Southeast Junior College on 87th and South Chicago.

Q And did you enroll in any particular type of a course?

A Yes, I did. You mean the courses that I had or what, or just general courses, it wasn't any—

Q It was just a general course?

A Yes.

Q Did you have any particular objective in mind?

A Yes, I did.

[fol. 12] Q What was that?

A Teacher Education.

Q And did they give you a course on Teacher Education?

A Yes.

Q And that is the course you signed up for?

A Yes, and that is the courses I took, and those are the courses I am taking.

Q And those are the courses you are still taking?

A Yes.

Q Did you discuss with anybody at Southeast Junior College the possibility of a scholarship?

A No, I didn't.

Q Now, at that time when you started Southeast Junior College, how old were you?

A I was seventeen.

Q And were you and your mother on A.D.C. at that time?

A Yes.

Q And eventually, was that closed out as far as you were concerned?

A Yes, it was a few months later.

Q And were you told why?

A They said because I reached the age of eighteen [fol. 13] and I was more or less on my own, and they had to discontinue it.

Q All right, were you then transferred to General Assistance for a while?

A For a short while.

Q And were you told why you were transferred to General Assistance?

A I don't remember.

Q Was it suggested to you at that time either by the school or by the Cook County Department of Public Aid or any of their representatives that you seek part-time employment?

A The school did not suggest anything. The Cook County Department of Public Aid suggested it, but I did not.

Q You did not what?

A I didn't seek employment because of reasons.

Q But, it was suggested to you?

A That is right, only by the Public Aid.

Q Pardon?

A Only by the Public Aid, school didn't.

Q Who suggested it to you there?

A I believe, it was one of my mother's caseworkers. I am not for sure.

Q And did they also suggest to you that they refer [fol. 14] you to the Director of Students at the school to see if you can get part-time employment?

A I think so.

Q Did you?

A Yes, I did.

Q And what did the Director of Students do for you, if anything, relative to part-time employment?

A He asked me what were my hours in school. I told him, and he said if I could come in during, between the classes and make some arrangements to work or something like that.

Q What did you say?

A I said if I had the time and if I had, if I could spare the time from studying or whatever, the class that I would do that.

Q Did you do that?

A No, I did not.

Q And for what reason?

A Because of the fact that I did not have enough time between the classes.

Q How many hours were you taking that first semester?

A I do not remember, most of the classes were one right after the other and I did not have any breaks be-

[fol. 15] tween.

Q Did you go to school five days a week?

A Yes, I do.

Q Morning and afternoon?

A That is right.

Q The first semester?

A That is right.

Q Was there employment available to you after school?

A I don't know.

Q Did you attempt to find out?

A Yes, I did, but I do not remember.

Q How about employment on Saturdays and Sundays?

A I don't work on Sundays.

Q How about Saturdays?

A I was studying on Saturdays, and I was taking care of my mother just like every other day during the week.

Q And how were your grades the first semester?

A They were not the best.

Q What were they, do you remember?
A No, I don't.
Q Well, at the end of your first semester, were you put on probation?
[fol. 16] A I believe, I was. I am not too sure.
Q Do you recall receiving a notice from the Department of Public Aid advising that you were employable and suggesting to you that you come down to discuss the situation with the Department of Public Aid?
A No, no.
Q And do you remember that two different appointments were made for you to do that?
A No.
Q And eventually, were you taken off General Assistance?
A Yes, eventually, yes, very soon, very soon, yes.
Q Did they tell you why?
A Yes.
Q Why?
A They said because they could no longer give me the money when I was suppose to work or something like that. I don't remember all of that either.
Q How about your second semester in school, that would have started in February of 1966, how were your grades, then?
A I can't tell you exactly how my grades were each semester, I can't, now. I am sure you can find the rec-
[fol. 17] ords because I can't tell you exactly.
MR. LEFKOW: Couldn't you take the deposition of the Custodian of Records.
THE WITNESS: I said I can't tell you each semester how I did, what courses I had, how many hours I had, and the grades that I received. I am sure you can get the records from school just like you got that, what you have down here.
MR. LEFKOW: Didn't you take the deposition of the Custodian of Records?
MR. GENIS: Yes.
MR. LEFKOW: Okay.

MR. GENIS:

Q Now, after your first year at DuSable which would bring us, well, let me ask you when does the school year usually end?

A Well, it ends some time in June, the early part.

Q Pardon?

A Early part of June or middle part of June.

Q After your first year ended in June of 1967 and you came to the summer vacation, what did you do? Did you work?

A No, I did not work.

[fol. 18] Q Did you go to summer school?

A No, I didn't.

Q What did you do?

A I studied and took care of my mother.

Q What did you study?

A What I had the previous semester and what I anticipated on taking the next semester.

Q You spent all—

A All summer.

Q All summer—

A Studying?

Q Studying?

A And taking care of my mother.

Q I am interested in the subject?

A Studying what I already had.

Q You re-studied what you had had?

A Yes, that is right.

Q And you were also studying what you were going to have?

A What I anticipated, I couldn't say what I was going to have the next semester.

Q What did you study relative to next semester?

A What I had had before and maybe like if I didn't finish the book, you have the first part of the course [fol. 19] and you have the second part the next semester. Maybe, if you have the same book and like if you stop on Chapter 10, maybe you start 11, the second part. That is what I studied.

Q How many hours a day during the summer of '67 did you spend studying?

A I can't tell you.
Q Give me your best estimate?
A Maybe, I don't know, the good part of the day, most of the day, and see, sometimes in the evening.
Q All right. Then, you started again in September of 1967?
A Yes.
Q Do you remember how your grades were in your second year at school?
A I do not remember.
MR. LEFKOW: I think she already indicated she doesn't remember specific grades, Mr. Genis, you know, and to ask her that question continuously is harrassing, and I would object to it.

MR GENIS:

Q After your second year at DuSable we come to the summer of 1968. What did you do in the summer of 1968?
[fol. 20] A The same thing that I did in the summer of 1967.
Q Which was?
A Only, I went to summer school and I graduated. I studied, I went to summer school and I took care of my mother.
Q You say you went to summer school in the summer of '68?
A Are you speaking of Southeast or DuSable?
Q No. No, I am talking of the summer of 1968, that you were at DuSable?
A No, I just went to, I thought you were speaking of '66, I studied and took care of my mother. I did not go to summer school.
Q Then, you started again in September of 1968 which would be your third year at Southeast?
A That is right.
Q Now, do you remember when you applied for A.D.C.?
A I don't remember exactly when it was.
Q Did you apply for A.D.C.?
A Yes.

Q And what caused you to apply for A.D.C.?
A The funds were low.
[fol. 21] Q Whose funds?
A My mother's funds were very, very low, and money was short and we did not have enough to live on.
Q And who suggested to you that you apply for A.D.C. again?
A My mother and I went to apply ourselves, it didn't have to be suggested.
Q Were you represented by a lawyer?
A I don't remember whether the lawyer came in. He might have been that time, I am not too sure.
Q Were you ever represented by a lawyer?
A Yes.
Q Do you know who it was?
A If it wasn't Mr. Lefkow, I am not too sure who it was. I can't remember these facts from year to year and down to every detail.
MR. LEFKOW: Just try to take your time to answer as accurately as you can.
THE WITNESS: I can't, it was either him or another lawyer, I don't remember.
MR. LEFKOW: I think he is referring to when you filed an application or your mother filed it.
THE WITNESS: Yes, but I don't think he was the [fol. 22] lawyer, I am not too sure.

MR. GENIS:

Q You are not too sure, all right. When did you first meet Mr. Lefkow?
A Oh, my goodness.
MR. LEFKOW: I would object, Mr. Genis, that is not relevant to any determination.
MR. GENIS: She doesn't seem to be able to remember anything.
THE WITNESS: Wait a minute, I remember, my memory is just as good as the next person's.
MR. LEFKOW: I would object to that. I don't that —that is a lawyer client relationship, that does—
MR. GENIS: I am not asking her about the relationship. I haven't asked her a word in relation to that.

MR. LEFKOW: I would say it is. If you can connect it up to the relevancy of the case, that is one thing, but it sounds to me that is just fishing.

MR. GENIS:

Q Did you ever discuss with your mother relative to seeking part-time employment?

A Yes, I did.

Q And what, did you want part-time employment?

A Yes, I did.

[fol. 23] Q And did your mother object to it?

A No, she didn't.

Q What was the result of the discussion?

A The result was that I had to study and I had to take care of her and it is very hard to work and to go to school. I have never done it. I have heard it is very hard, and it is hard enough just to go to school and take care of the house and take care of my mother, and I just didn't think I could do it, In fact, I knew I couldn't do it. It is hard enough, just the other two that I named before.

Q Well, was it your idea that you stay home, or was it your mother's?

A It was not my mother's idea. It was mine because of the facts as I told you before.

Q Well, did your mother suggest to you that you seek outside employment?

A I just told you she did.

Q But, you decided against it?

A It is not the point that I decided against it, it is my mother and I discussed it. You asked if we discussed it. I told you yes. I discussed it with her and she discussed it with me, any way you want to say it. I thought about what I had to do, my obligations at [fol. 24] home and at school. Now, it was too much to have outside employment. It was enough in the home and in school, my goodness.

Q Now, we come to this past summer that has just ended. What did you do this summer, this past summer?

A I studied and took care of my mother. That is all.

Q Do you have an evening school at DuSable?
A I don't know, I never attended.
Q Do you know if they have it?
A I don't know.
Q Now, DuSable is what is known as a junior college, is it not?
A No. You have the schools mixed up, the high school mixed up with the college. Southeast is the college, DuSable is the high school.
Q You are right. Southeast is a junior college, is it not?
A City College.
Q And that is the first two years of college work?
A Yes.
Q And it is commonly called a two-year college, isn't [fol. 25] it?
A That is right.
Q And you are suppose to theoretically finish it in two years?
A Two years.
Q Do you know how many hours of work you need to complete your two year course at Southeast?
A I think it is approximately fifteen hours a semester.
Q Fifteen hours a semester, that would mean sixty hours of credits, is that correct?
A That is correct.
Q And do you know how many you have?
A I have about forty something, I believe.
Q Forty something, and you have now been attending for three years?
A That is correct.
Q And how many years do you anticipate it will take you to finish Southeast?
A Maybe one, I am not too sure.
Q You think it might take you more than one?
A I don't know.
Q You know how many hours you need?
A Well, if it is forty something, I should take maybe [fol. 26] eighteen or something like that, you know, less than twenty to make it sixty.

Q Has Southeast started this year?
A No, it hasn't. It begins Monday.
Q It starts Monday?
A That is right.
Q And you need approximately eighteen to twenty more hours, is that it?
A I believe so.
Q And how many hours do you anticipate taking this semester?
A About fifteen, I think.
Q So, that it will take you approximately one year more to finish?
A That is right.
Q Do you know how many times you have been on probation during the three years that you have been there?
A No, I don't.
Q Do you know what your average is at school?
A No, I don't. I think, it is about a C, maybe less, I don't know.
Q You do need a certain average, and a certain number of hours to meet your work at Southeast, don't you?
[fol. 27] A That is correct.
Q But, you don't know what your average is, and you are not too sure exactly of how many hours you have?
A It is about, like I said, it might be forty something, it is no more than, it might be a little less and the average is basically about a C, it is not higher.
Q Now, assuming that you do finish within a year more, do you contemplate going further on in school?
A Yes, I do.
Q And where do you anticipate going?
A To Chicago State College.
Q And how many more years will you need there?
A The full four years.
Q Four more years?
A That is correct.
Q In other words, you need not only to satisfactorily complete two years of work at the junior college, but

in addition thereto, you need four more years at Chicago State College, is that it?

A Yes, that is correct.

Q Chicago State requires four years of college?

[fol. 28] A Yes, it is a four-year college.

MR. LEFKOW: Your two years would be credited.

THE WITNESS: Then, two years, I suppose.

MR. GENIS:

Q Do you know, young lady?

A No, I do not know.

Q Have you made any attempt?

A No, I haven't because I haven't completed this, and I haven't gotten ready for graduation so, you know in due time I will look into it.

Q That is known as—what is the name of that school?

A Chicago State College. Used to be Chicago Teacher's College.

Q Have you registered yet for this coming year?

A Yes, I have.

Q Tell us what you have registered for?

A Humanities, Speech.

Q Let's take one at a time. How many hours of Humanities?

A Three hours.

Q Go ahead.

A Speech is three hours, Math is four hours.

[fol. 29] Q Go ahead.

A And French is four hours.

Q And, I believe, it is a total of fourteen hours, right?

A That is right.

Q And will you be going every day of the week?

A I suppose so, I am not too sure.

Q You don't know when these courses will be?

A Yes, I know, but I think some adjustments will have to be made.

Q Well, during the three years that you have been going to Southeast have you gone to school every day of the week, excluding Saturdays and Sundays?

A Most of the time, some semesters I have, yes.

Q Well, some semesters you have only taken nine hours, haven't you?

A Yes.

Q That means you only went to school three days a week, Monday, Wednesday and Friday, is that right, and Tuesday and Thursday you did not go to school?

A Yes.

Q Most of the time you have been going to Southeast you have only taken nine hours, isn't that correct?

[fol. 30] A Yes.

Q So, most of the time you have been going to Southeast you have only been going to school three days a week —Just a moment will you tell them not to talk.

MR. LEFKOW: Don't, you will have a chance, Mrs. Townsend.

MR. GENIS:

Q Most of the time you have been only taking nine hours a semester?

A That is right.

Q So, most of the time you have only been going to school three days a week?

A Yes.

Q And what have you been doing Tuesday and Thursday?

A What, the same thing I have been doing on Saturdays and Sundays, studying and taking care of my mother.

Q To be able to complete the course in two years you have to average fifteen hours a semester or better, is that correct?

A That is correct.

Q So, you have not been carrying a full load during the time you have been there?

[fol. 31] A That is right.

Q By that is right, you have not?

A I have not been carrying a full load during the time I have been there.

Q All right. Are you familiar with the fact that during the six semesters that you have been in school, you have been on probation three of the six semesters?

A You said that already, and I already knew the facts, I knew it before you did.

Q I thought you told me earlier that you didn't remember?

A I told you I was on probation. You asked me and I said that I was. I told you I was not sure on the exact amount of times. I actually knew it before you. If it was three times or one time or five times, I knew before you.

Q Is it correct that you were on probation three of the six semesters?

A Yes.

Q Do you know?

MR. LEFKOW: She just told you.

MR. GENIS:

Q Do you know?

* * * *

[fol. 33] Q Do you have lunch at home?

A No, I don't. What do you mean at home, during school days or what?

Q Yes.

A I am at school, I can't be home and at school, too.

Q Well, young lady, if you are taking nine hours of work a semester which is three hours a day—

A That is right.

Q —you always try, don't you, to get these three hours next to each other?

A I try, it doesn't always work out like that.

Q When it does work out, you are only at school for three hours, correct?

A That is correct, but, it never worked out like that.

Q During these past three years have you done anything outside of going to school and outside of taking care of your mother. Have you done any sort of work whatsoever?

A I told you I have not.

Q Do you have any sources of income outside of what your mother receives?

A No.

[fol. 34] A No.
Q Under D.A.?
A Under what?
Q D.A. Disability Assistance?
A No, I don't have any other sources of income.
Q And have you received any sort of income of any kind?
A No, I have not.
Q Relative to clothes?
A No.
Q Or food?
A No.
Q Do you have any relatives?
A Yes.
Q Who are your relatives?
A Relatives.
MR. LEFKOW: I would object to that. Mr. Genis, I don't know what her family—
MR. GENIS: I want to find out if she is receiving assistance.
THE WITNESS: My relatives are poor just like we are, and don't give us anything.

MR. GENIS:

Q How about friends?
[fol. 35] A Friends, you mean associates. No friends, no associates.
Q Do you have anything from charities?
A I have not. My mother has not received anything from anybody.
MR. LEFKOW: Omega, just answer him yes or no.

MR. GENIS:

Q What do you do in the evenings?
A Different evenings I do different things.
Q Well, outside of studying and taking care of your mother?
A It is not much time left, I go to bed.

Q Do you have any girlfriends?
A Yes.

Q Do you ever see them?

A Sometimes.

MR. LEFKOW: I would have to object again to that. Her girlfriends don't have anything to do with this case. I haven't seen any connection between her girlfriends and the case at hand.

MR. GENIS: She said that she spent all her time either taking care of the house or in school or studying and I want to find out on that.

[fol. 36] MR. GENIS:

Q Do you see your friends outside of school?

A Yes.

Q Where do you see them?

A At church.

Q Where else—how often do you go to church?

A Sometimes once a week.

Q On Sunday?

A Yes, that is right.

Q Have you a boyfriend?

A No.

Q Do you ever go out with boys?

A No.

Q Ever go swimming?

A No.

Q Ever watch T.V.?

A No, it is broken.

Q Well, when it wasn't broken?

A Well, naturally.

Q Do you participate in any sport of any kind?

A No, I do not.

Q Does your mother do anything at home relative to taking care of herself or the apartment?

A No, she doesn't.

[fol. 37] Q She doesn't do a thing?

A Like what I mean, you mean like—

Q Does she feed herself?

A Yes, she can feed herself. She does not cook, though.

Q Is she able to dress herself?

A In some things, yes, you know like a dress or something, but nothing difficult.

Q Is she able to undress herself?
A Some things, and some things not.
Q Is she able to do any cooking?
A Some times, very little, like boiling something.
Q Does she do anything relative to keeping the house?
A No, she does not.
Q How about shopping?
A No.
Q Does she ever go out of the house?
A To take a walk when I go with her.
Q When you contemplate going to Chicago State College, you contemplate taking a full course, or only approximately a half course as you are taking, now?
A I contemplate taking a full course.
Q That will be a minimum of fifteen to eighteen [fol. 38] hours a semester?
A That is correct.
Q And that would require you to be there every day, that is Monday through Friday inclusive, would it not?
A Yes, it would.
Q And who is going to take care of your mother, then?
A I do not know.
Q You never registered for emplyoyment anywhere at any time have you?
A No, I have not.
Q Would you take part-time employment if it was available to you?
A I couldn't because of the fact of my other duties.
Q Ever go to a movie?
A No, I don't.
Q What do you do during Christmas vacation.
A I stay at home.
Q Did you ever think about getting work to do at home such as typing?
A No, I hadn't thought about that.
Q Have you done babysitting?
[fol. 39] A No.
Q Have you attempted to get any scholarship loans?
A Yes, I have.

Q Where and when?
A At school, I believe, it was last semester.
Q And who did you see there?
A I saw the man in charge of it. I can't remember his name.
Q What is his title?
A I do not know.
Q And what was the result?
A They said that you had to have so many hours or something like that, and I didn't have the correct amount of hours, and I didn't have the correct grades.
Q You mean your grades were too low?
A That is right.
Q Who do you contemplate is going to take care of your mother if you graduate and become a school teacher?
A I will graduate, and I will become a school teacher, but, I do not know who will take care of my mother.
[fol. 40] Q How old are you, now?
A I am twenty years old.
Q And when will you be twenty-one?
A In December of this year.
MR. GENIS: Do you have any questions?
MR. BILTON: No, I don't.

MR. GENIS:

Q Did you do any typing of any kind at the present time?
A Some.
Q What kind of typing do you do?
A Typing for my school work.
Q When you take notes in school, do you take them in shorthand?
A No, I do not.
Q Have you a typewriter?
A Yes, I have.
Q Does it belong to you?
A Yes, it does.
MR. GENIS: I think that is all. Thank you.

* * * *

[fol. 41] [Reporter's Certificate to Foregoing Transcript Omitted in Printing]

SUPREME COURT OF THE UNITED STATES

No. 5850, October Term, 1970

GEORGIA TOWNSEND, ETC., APPELLANT

v.

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL.

ON CONSIDERATION OF the motion for leave to proceed herein in forma pauperis,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, granted.

February 22, 1971

SUPREME COURT OF THE UNITED STATES

No. 6000, October Term, 1970

LOVERTA ALEXANDER, ET AL., APPELLANTS

v.

HAROLD O. SWANK, ET AL.

ON CONSIDERATION of the motion for leave to proceed herein in forma pauperis,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, granted.

February 22, 1971

SUPREME COURT OF THE UNITED STATES

Nos. 5850 and 6000, October Term, 1970

GEORGIA TOWNSEND, ETC., APPELLANT

v.

HAROLD O. SWANK, Director, Illinois Department of Public Aid, ET AL.

and

LOVERTA ALEXANDER, ET AL., APPELLANTS

v.

HAROLD O. SWANK, ET AL.

APPEALS from the United States District Court for the Northern District of Illinois.

The statements of jurisdiction in these cases having been submitted and considered by the Court, probable jurisdiction is noted. The cases are consolidated and a total of one hour is allotted for oral argument.

February 22, 1971

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